



Rep. Robert Rita

Filed: 3/23/2015

09900HB3332ham001

LRB099 00381 MLM 33189 a

1 AMENDMENT TO HOUSE BILL 3332

2 AMENDMENT NO. _____. Amend House Bill 3332 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Regulatory Sunset Act is amended by
5 changing 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 Acts repealed on January 1, 2016.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8 Acts are repealed on January 1, 2016: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.

1 The Illinois Physical Therapy Act.

2 The Professional Geologist Licensing Act.

3 (Source: P.A. 95-331, eff. 8-21-07; 95-876, eff. 8-21-08;
4 96-1246, eff. 1-1-11.)

5 (5 ILCS 80/4.36 new)

6 Sec. 4.36. Act repealed on January 1, 2026. The following
7 Act is repealed on January 1, 2026:

8 The Collection Agency Act.

9 Section 10. The Collection Agency Act is amended by
10 changing Sections 2, 2.03, 2.04, 3, 4, 4.5, 5, 7, 8, 8a, 8b 8c,
11 9, 9.1, 9.2, 9.3, 9.4, 9.7, 9.22, 11, 13.1, 13.2, 14a, 14b, 16,
12 17, 18, 19, 20, 21, 22, 23, 24, 26, and 27 and by adding
13 Sections 30, 35, 40, 45, 50, and 55 as follows:

14 (225 ILCS 425/2) (from Ch. 111, par. 2002)

15 (Section scheduled to be repealed on January 1, 2016)

16 Sec. 2. Definitions. In this Act:

17 "Address of record" means the designated address recorded
18 by the Department in the applicant's or registrant's
19 application file or registration file as maintained by the
20 Department's licensure maintenance unit. It is the duty of the
21 applicant or registrant to inform the Department of any change
22 of address and those changes must be made either through the
23 Department's website or by contacting the Department.

1 "Board" means the Collection Agency Licensing and
2 Disciplinary Board.

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

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

8 "Credit Consumer credit transaction" means a transaction
9 between a natural person and another person in which property,
10 service, or money is acquired on credit by that natural person
11 from such other person primarily for personal, family, or
12 household purposes.

13 ~~"Consumer debt" or "consumer credit" means money,~~
14 ~~property, or their equivalent, due or owing or alleged to be~~
15 ~~due or owing from a natural person by reason of a consumer~~
16 ~~credit transaction.~~

17 "Creditor" means a person who extends consumer credit to a
18 debtor.

19 "Current balance" means the charge-off balance plus any
20 legally collectible costs, expenses, and interest, less any
21 credits or payments.

22 "Debt" means money, property, or their equivalent which is
23 due or owing or alleged to be due or owing from a natural
24 person to another person.

25 "Debt buyer" means a person or entity that is engaged in
26 the business of purchasing delinquent or charged-off consumer

1 loans or consumer credit accounts or other delinquent consumer
2 debt for collection purposes, whether it collects the debt
3 itself or hires a third-party for collection or an
4 attorney-at-law for litigation in order to collect such debt.

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

7 ~~"Debt collector", "collection agency", or "agency" means
8 any person who, in the ordinary course of business, regularly,
9 on behalf of himself or herself or others, engages in debt
10 collection.~~

11 "Debtor" means a ~~natural~~ person from whom a collection
12 agency debt collector seeks to collect a consumer or commercial
13 debt that is due and owing or alleged to be due and owing from
14 such person.

15 "Department" means ~~Division of Professional Regulation~~
16 ~~within~~ the Department of Financial and Professional
17 Regulation.

18 ~~"Director" means the Director of the Division of~~
19 ~~Professional Regulation within the Department of Financial and~~
20 ~~Professional Regulation.~~

21 "Person" means a natural person, partnership, corporation,
22 limited liability company, trust, estate, cooperative,
23 association, or other similar entity.

24 "Registered collection agency" means a person who is
25 registered under this Act to engage in the practice of debt
26 collection in Illinois.

1 "Secretary" means the Secretary of Financial and
2 Professional Regulation.

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

4 (225 ILCS 425/2.03) (from Ch. 111, par. 2005)

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

6 Sec. 2.03. Exemptions. This Act does not apply to persons
7 whose collection activities are confined to and are directly
8 related to the operation of a business other than that of a
9 collection agency, and specifically does not include the
10 following:

11 1. Banks, including trust departments, affiliates, and
12 subsidiaries thereof, fiduciaries, and financing and
13 lending institutions (except those who own or operate
14 collection agencies);

15 2. Abstract companies doing an escrow business;

16 3. Real estate brokers when acting in the pursuit of
17 their profession;

18 4. Public officers and judicial officers acting under
19 order of a court;

20 5. Licensed attorneys at law;

21 6. Insurance companies;

22 7. Credit unions, including affiliates and
23 subsidiaries thereof (except those who own or operate
24 collection agencies);

25 8. Loan and finance companies, including entities

1 licensed pursuant to the Residential Mortgage License Act
2 of 1987;

3 9. Retail stores collecting their own accounts;

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

7 11. Any person or business under contract with a
8 creditor to notify the creditor's debtors of a debt using
9 only the creditor's name.

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

11 (225 ILCS 425/2.04) (from Ch. 111, par. 2005.1)

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

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

14 (a) Collection agencies ~~Persons, associations,~~
15 ~~partnerships, corporations, or other legal entities~~ engaged in
16 the business of collecting child support debt ~~indebtedness~~
17 owing under a court order as provided under the Illinois Public
18 Aid Code, the Illinois Marriage and Dissolution of Marriage
19 Act, ~~the Non-Support of Spouse and Children Act,~~ the
20 Non-Support Punishment Act, the Illinois Parentage Act of 1984,
21 or similar laws of other states are not restricted (i) in the
22 frequency of contact with an obligor who is in arrears, whether
23 by phone, mail, or other means, (ii) from contacting the
24 employer of an obligor who is in arrears, (iii) from publishing
25 or threatening to publish a list of obligors in arrears, (iv)

1 from disclosing or threatening to disclose an arrearage that
2 the obligor disputes, but for which a verified notice of
3 delinquency has been served under the Income Withholding for
4 Support Act (or any of its predecessors, Section 10-16.2 of the
5 Illinois Public Aid Code, Section 706.1 of the Illinois
6 Marriage and Dissolution of Marriage Act, Section 22 ~~4.1~~ of the
7 Non-Support Punishment of Spouse and Children Act, Section 26.1
8 of the Revised Uniform Reciprocal Enforcement of Support Act,
9 or Section 20 of the Illinois Parentage Act of 1984), or (v)
10 from engaging in conduct that would not cause a reasonable
11 person mental or physical illness. For purposes of this
12 subsection, "obligor" means an individual who owes a duty to
13 make periodic payments, under a court order, for the support of
14 a child. "Arrearage" means the total amount of an obligor's
15 unpaid child support obligations.

16 (a-5) A collection agency may not impose a fee or charge,
17 including costs, for any child support payments collected
18 through the efforts of a federal, State, or local government
19 agency, including but not limited to child support collected
20 from federal or State tax refunds, unemployment benefits, or
21 Social Security benefits.

22 No collection agency that collects child support payments
23 shall (i) impose a charge or fee, including costs, for
24 collection of a current child support payment, (ii) fail to
25 apply collections to current support as specified in the order
26 for support before applying collection to arrears or other

1 amounts, or (iii) designate a current child support payment as
2 arrears or other amount owed. In all circumstances, the
3 collection agency shall turn over to the obligee all support
4 collected in a month up to the amount of current support
5 required to be paid for that month.

6 As to any fees or charges, including costs, retained by the
7 collection agency, that agency shall provide documentation to
8 the obligee demonstrating that the child support payments
9 resulted from the actions of the agency.

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

13 (a-10) The Department ~~of Professional Regulation~~ shall
14 determine a fee rate of not less than 25% but not greater than
15 35%, based upon presentation by the licensees as to costs to
16 provide the service and a fair rate of return. This rate shall
17 be established by administrative rule.

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

26 (b) The Department shall adopt rules necessary to

1 administer and enforce the provisions of this Section.

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

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

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

5 Sec. 3. A person, ~~association, partnership, corporation,~~
6 ~~or other legal entity~~ acts as a collection agency when he, she,
7 or it:

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

10 (b) Receives, by assignment or otherwise, accounts,
11 bills, or other debt ~~indebtedness~~ from any person owning or
12 controlling 20% or more of the business receiving the
13 assignment, with the purpose of collecting monies due on
14 such account, bill or other debt ~~indebtedness~~;

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

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

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

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

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

9 (225 ILCS 425/4) (from Ch. 111, par. 2007)

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

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

1 licensed in Illinois.

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

3 (225 ILCS 425/4.5)

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

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

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

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

1 file an answer to the satisfaction of the Department. Failure
2 to answer to the satisfaction of the Department shall cause an
3 order to cease and desist to be issued immediately.

4 (c) The civil penalty shall be paid within 60 days after
5 the effective date of the order imposing the civil penalty. The
6 order shall constitute a judgment and may be filed and
7 execution had thereon in the same manner as any judgment from
8 any court of record.

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

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

12 (225 ILCS 425/5) (from Ch. 111, par. 2008)

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

14 Sec. 5. Application for original license. Application for
15 license registration shall be made to the Secretary Director on
16 forms provided by the Department, shall be accompanied by the
17 required fee and shall state:

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

19 (2) the names and addresses of the officers of the
20 collection agency and, if the collection agency is a
21 corporation, the names and addresses of all persons owning
22 10% or more of the stock of such corporation, if the
23 collection agency is a partnership, the names and addresses
24 of all partners of the partnership holding a 10% or more
25 interest in the partnership, ~~and,~~ if the collection agency

1 is a limited liability company, the names and addresses of
2 all members holding 10% or more interest in the limited
3 liability company, and if the collection agency is any
4 other legal business entity, the names and addresses of all
5 persons owning 10% or more interest in the entity; and

6 (3) such other information as the Department may deem
7 necessary.

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

9 (225 ILCS 425/7) (from Ch. 111, par. 2010)

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

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

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

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

19 (c) have an acceptable credit rating, have no unsatisfied
20 judgments; and not have been officers and owners of 10% or more
21 interest of a former registrant under this Act whose
22 certificates were suspended or revoked without subsequent
23 reinstatement.

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

1 (225 ILCS 425/8) (from Ch. 111, par. 2011)

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

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

1 applicant if it obtains a new bond.

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

3 (225 ILCS 425/8a) (from Ch. 111, par. 2011a)

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

5 Sec. 8a. Fees.

6 (a) ~~The Department shall provide by rule for a schedule of~~
7 fees for the administration and enforcement of this Act,
8 including but not limited to original licensure, renewal, and
9 restoration, shall be set by the Department by rule. The fees
10 shall be nonrefundable.

11 (b) All fees collected under this Act shall be deposited
12 into the General Professions Dedicated Fund and shall be
13 appropriated to the Department for the ordinary and contingent
14 expenses of the Department in the administration of this Act.

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

16 (225 ILCS 425/8b) (from Ch. 111, par. 2011b)

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

18 Sec. 8b. Assignment for collection. An account may be
19 assigned to a collection agency for collection with title
20 passing to the collection agency to enable collection of the
21 account in the agency's name as assignee for the creditor
22 provided:

23 (a) The assignment is manifested by a written agreement,
24 separate from and in addition to any document intended for the

1 purpose of listing a debt with a collection agency. The
2 document manifesting the assignment shall specifically state
3 and include:

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

5 (ii) the consideration for the assignment.

6 (b) The consideration for the assignment may be paid or
7 given either before or after the effective date of the
8 assignment. The consideration may be contingent upon the
9 settlement or outcome of litigation and if the debt claim being
10 assigned has been listed with the collection agency as an
11 account for collection, the consideration for assignment may be
12 the same as the fee for collection.

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

17 (d) No assignment shall be required by any agreement to
18 list a debt with a collection agency as an account for
19 collection.

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

24 (f) If a collection agency takes assignments of accounts
25 from 2 or more creditors against the same debtor and commences
26 litigation against that debtor in a single action, in the name

1 of the collection agency, then (i) the complaint must be stated
2 in separate counts for each assignment and (ii) the debtor has
3 an absolute right to have any count severed from the rest of
4 the action.

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

6 (225 ILCS 425/8c) (from Ch. 111, par. 2011c)

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

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

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

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

24 (c) Notwithstanding any contractual arrangement, every
25 client of a licensee shall within 60 days after the close of

1 each calendar month, account and pay to the licensee collection
2 agency all sums owed to the collection agency for payments
3 received by the client during that calendar month on debts
4 ~~claims~~ in possession of the collection agency. If a client
5 fails to pay the licensee any sum due under this Section, the
6 licensee shall, in addition to other remedies provided by law,
7 have the right to offset any money due the licensee under this
8 Section against any moneys due the client.

9 (d) Each collection agency shall keep on file the name of
10 the bank, savings and loan association, or other recognized
11 depository in which each trust account is maintained, the name
12 of each trust account, and the names of the persons authorized
13 to withdraw funds from each account.

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

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

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

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

22 (225 ILCS 425/9) (from Ch. 111, par. 2012)

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

24 Sec. 9. Disciplinary actions.

25 (a) The Department may refuse to issue or renew, or may

1 revoke, suspend, place on probation, reprimand or take other
2 disciplinary or non-disciplinary action as the Department may
3 deem proper, including fines not to exceed \$5,000 for a first
4 violation and not to \$10,000 for each violation with regard to
5 any collection agency license ~~exceed \$10,000 for a second or~~
6 ~~subsequent violation,~~ for any one or any combination of the
7 following causes:

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

10 (2) ~~(1)~~ Violations of this Act or of the rules
11 promulgated hereunder.

12 (3) ~~(2)~~ Conviction by plea of guilty or nolo
13 contendere, finding of guilt, jury verdict, or entry of
14 judgment or by sentencing of any crime, including, but not
15 limited to, convictions, preceding sentences of
16 supervision, conditional discharge, or first offender
17 probation of the collection agency or any of the officers
18 or owners of more than 10% interest ~~principals~~ of the
19 agency of any crime under the laws of any U.S. jurisdiction
20 that (i) is a felony, (ii) is a misdemeanor, an essential
21 element of which is dishonesty, or (iii) is directly
22 related to the practice of a collection agency ~~any U.S.~~
23 ~~jurisdiction which is a felony, a misdemeanor an essential~~
24 ~~element of which is dishonesty, or of any crime which~~
25 ~~directly relates to the practice of the profession.~~

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

1 applying for, or procuring, a license under this Act or in
2 connection with applying for renewal of ~~for the purpose of~~
3 ~~obtaining a license~~ under this Act ~~or certificate.~~

4 (5) Aiding or assisting another person in violating any
5 provision of this Act or rules adopted under this Act.

6 (6) Failing, within 60 days, to provide information in
7 response to a written request made by the Department.

8 (7) ~~(4)~~ Habitual or excessive use or addiction to
9 alcohol, narcotics, stimulants or any other chemical agent
10 or drug which results in the inability to practice with
11 reasonable judgment, skill, or safety by any of the
12 officers or owners of 10% or more interest ~~principals~~ of a
13 collection agency.

14 (8) ~~(5)~~ Discipline by another state, the District of
15 Columbia, a territory of the United States, U.S.
16 ~~jurisdiction~~ or a foreign nation, if at least one of the
17 grounds for the discipline is the same or substantially
18 equivalent to those set forth in this Act.

19 (9) ~~(6)~~ A finding by the Department that the licensee,
20 after having his license placed on probationary status, has
21 violated the terms of probation.

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

25 (11) ~~(7)~~ Practicing or attempting to practice under a
26 false or, except as provided by law, an assumed name ~~a name~~

1 ~~other than the name as shown on his or her license or any~~
2 ~~other legally authorized name.~~

3 (12) ~~(8)~~ A finding by the Federal Trade Commission that
4 a registrant licensee violated the federal ~~Federal~~ Fair
5 Debt ~~and~~ Collection Practices Act or its rules.

6 (13) ~~(9)~~ Failure to file a return, or to pay the tax,
7 penalty or interest shown in a filed return, or to pay any
8 final assessment of tax, penalty or interest, as required
9 by any tax Act administered by the Illinois Department of
10 Revenue until such time as the requirements of any such tax
11 Act are satisfied.

12 (14) ~~(10)~~ Using or threatening to use force or violence
13 to cause physical harm to a debtor, his or her family or
14 his or her property.

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

18 (16) ~~(12)~~ Threatening the seizure, attachment or sale
19 of a debtor's property where such action can only be taken
20 pursuant to court order without disclosing that prior court
21 proceedings are required.

22 (17) ~~(13)~~ Disclosing or threatening to disclose
23 information adversely affecting a debtor's reputation for
24 credit worthiness with knowledge the information is false.

25 (18) ~~(14)~~ Initiating or threatening to initiate
26 communication with a debtor's employer unless there has

1 been a default of the payment of the obligation for at
2 least 30 days and at least 5 days prior written notice, to
3 the last known address of the debtor, of the intention to
4 communicate with the employer has been given to the
5 employee, except as expressly permitted by law or court
6 order.

7 (19) ~~(15)~~ Communicating with the debtor or any member
8 of the debtor's family at such a time of day or night and
9 with such frequency as to constitute harassment of the
10 debtor or any member of the debtor's family. For purposes
11 of this Section the following conduct shall constitute
12 harassment:

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

25 (B) The threat of publication or publication of a
26 list of consumers who allegedly refuse to pay debts,

1 except to a consumer reporting agency.

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

4 (D) Causing a telephone to ring or engaging any
5 person in telephone conversation repeatedly or
6 continuously with intent to annoy, abuse, or harass any
7 person at the called number.

8 (20) ~~(16)~~ Using profane, obscene or abusive language in
9 communicating with a debtor, his or her family or others.

10 (21) ~~(17)~~ Disclosing or threatening to disclose
11 information relating to a debtor's debt indebtedness to any
12 other person except where such other person has a
13 legitimate business need for the information or except
14 where such disclosure is permitted ~~regulated~~ by law.

15 (22) ~~(18)~~ Disclosing or threatening to disclose
16 information concerning the existence of a debt which the
17 collection agency ~~debt collector~~ knows to be ~~reasonably~~
18 disputed by the debtor without disclosing the fact that the
19 debtor disputes the debt.

20 (23) ~~(19)~~ Engaging in any conduct that is ~~which the~~
21 ~~Director finds was~~ intended to cause and did cause mental
22 or physical illness to the debtor or his or her family.

23 (24) ~~(20)~~ Attempting or threatening to enforce a right
24 or remedy with knowledge or reason to know that the right
25 or remedy does not exist.

26 (25) ~~(21)~~ Failing to disclose to the debtor or his or

1 her family the corporate, partnership or proprietary name,
2 or other trade or business name, under which the collection
3 agency ~~debt collector~~ is engaging in debt collections and
4 which he or she is legally authorized to use.

5 (26) ~~(22)~~ Using any form of communication which
6 simulates legal or judicial process or which gives the
7 appearance of being authorized, issued or approved by a
8 governmental agency or official or by an attorney at law
9 when it is not.

10 (27) ~~(23)~~ Using any badge, uniform, or other indicia of
11 any governmental agency or official except as authorized by
12 law.

13 (28) ~~(24)~~ Conducting business under any name or in any
14 manner which suggests or implies that the collection agency
15 ~~a debt collector~~ is ~~bonded if such collector is or is~~ a
16 branch of or is affiliated in ~~with~~ any way with a
17 governmental agency or court if such collection agency
18 ~~collector~~ is not.

19 (29) ~~(25)~~ Failing to disclose, at the time of making
20 any demand for payment, the name of the person to whom the
21 debt claim is owed and at the request of the debtor, the
22 address where payment is to be made and the address of the
23 person to whom the debt claim is owed.

24 (30) ~~(26)~~ Misrepresenting the amount of the ~~claim or~~
25 debt alleged to be owed.

26 (31) ~~(27)~~ Representing that an existing debt may be

1 increased by the addition of attorney's fees,
2 investigation fees or any other fees or charges when such
3 fees or charges may not legally be added to the existing
4 debt.

5 (32) ~~(28)~~ Representing that the collection agency debt
6 ~~collector~~ is an attorney at law or an agent for an attorney
7 if he or she is not.

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

22 (34) ~~(30)~~ Communicating or threatening to communicate
23 with a debtor when the collection agency debt collector is
24 informed in writing by an attorney that the attorney
25 represents the debtor concerning the debt claim, ~~unless~~
26 ~~authorized by the attorney~~. If the attorney fails to

1 respond within a reasonable period of time, the collector
2 may communicate with the debtor. The collector may
3 communicate with the debtor when the attorney gives his or
4 her consent.

5 (35) ~~(31)~~ Engaging in dishonorable, unethical, or
6 unprofessional conduct of a character likely to deceive,
7 defraud, or harm the public.

8 (b) The Department shall deny any license or renewal
9 authorized by this Act to any person who has defaulted on an
10 educational loan guaranteed by the Illinois State Scholarship
11 Commission; however, the Department may issue a license or
12 renewal if the person in default has established a satisfactory
13 repayment record as determined by the Illinois State
14 Scholarship Commission.

15 No collection agency ~~debt collector~~ while collecting or
16 attempting to collect a debt shall engage in any of the Acts
17 specified in this Section, each of which shall be unlawful
18 practice.

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

20 (225 ILCS 425/9.1)

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

22 Sec. 9.1. Communication with persons other than debtor. Any
23 ~~debt collector or~~ collection agency communicating with any
24 person other than the debtor for the purpose of acquiring
25 location information about the debtor shall:

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

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

6 (3) not communicate with any person more than once
7 unless requested to do so by the person or unless the ~~debt~~
8 ~~collector or~~ collection agency reasonably believes that
9 the earlier response of the person is erroneous or
10 incomplete and that the person now has correct or complete
11 location information;

12 (4) not communicate by postcard;

13 (5) not use any language or symbol on any envelope or
14 in the contents of any communication effected by mail or
15 telegram that indicates that the ~~debt collector or~~
16 collection agency is in the debt collection business or
17 that the communication relates to the collection of a debt;
18 and

19 (6) not communicate with any person other than the
20 attorney after the ~~debt collector or~~ collection agency
21 knows the debtor is represented by an attorney with regard
22 to the subject debt and has knowledge of or can readily
23 ascertain the attorney's name and address, ~~not communicate~~
24 ~~with any person other than the attorney,~~ unless the
25 attorney fails to respond within a reasonable period of
26 time, not less than 30 days, to communication from the ~~debt~~

1 ~~collector or~~ collection agency.

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

3 (225 ILCS 425/9.2)

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

5 Sec. 9.2. Communication in connection with debt
6 collection.

7 (a) Without the prior consent of the debtor given directly
8 to the ~~debt collector or~~ collection agency or the express
9 permission of a court of competent jurisdiction, a ~~debt~~
10 ~~collector or~~ collection agency may not communicate with a
11 debtor in connection with the collection of any debt in any of
12 the following circumstances:

13 (1) At any unusual time, place, or manner that is known
14 or should be known to be inconvenient to the debtor. In the
15 absence of knowledge of circumstances to the contrary, a
16 ~~debt collector or~~ collection agency shall assume that the
17 convenient time for communicating with a debtor is after
18 8:00 ~~8 o'clock~~ a.m. and before 9:00 ~~9 o'clock~~ p.m. local
19 time at the debtor's location.

20 (2) If the ~~debt collector or~~ collection agency knows
21 the debtor is represented by an attorney with respect to
22 such debt and has knowledge of or can readily ascertain,
23 the attorney's name and address, unless the attorney fails
24 to respond within a reasonable period of time to a
25 communication from the ~~debt collector or~~ collection agency

1 or unless the attorney consents to direct communication
2 with the debtor.

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

7 (b) Except as provided in Section 9.1 of this Act, without
8 the prior consent of the debtor given directly to the ~~debt~~
9 ~~collector or~~ collection agency, or the express permission of a
10 court of competent jurisdiction, or as reasonably necessary to
11 effectuate a post judgment judicial remedy, a ~~debt collector or~~
12 collection agency may not communicate, in connection with the
13 collection of any debt, with any person other than the debtor,
14 the debtor's attorney, a consumer reporting agency if otherwise
15 permitted by law, the creditor, the attorney of the creditor,
16 or the attorney of the collection agency.

17 (c) If a debtor notifies a ~~debt collector or~~ collection
18 agency in writing that the debtor refuses to pay a debt or that
19 the debtor wishes the ~~debt collector or~~ collection agency to
20 cease further communication with the debtor, the ~~debt collector~~
21 ~~or~~ collection agency may not communicate further with the
22 debtor with respect to such debt, except to perform any of the
23 following tasks:

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

26 (2) Notify the debtor that the collection agency or

1 creditor may invoke specified remedies that are ordinarily
2 invoked by such collection agency or creditor.

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

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

7 (d) For the purposes of this Section, "debtor" includes the
8 debtor's spouse, parent (if the debtor is a minor), guardian,
9 executor, or administrator.

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

11 (225 ILCS 425/9.3)

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

13 Sec. 9.3. Validation of debts.

14 (a) Within 5 days after the initial communication with a
15 debtor in connection with the collection of any debt, a ~~debt~~
16 ~~collector or~~ collection agency shall, unless the following
17 information is contained in the initial communication or the
18 debtor has paid the debt, send the debtor a written notice with
19 each of the following disclosures:

20 (1) The amount of the debt.

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

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

1 (4) That, if the debtor notifies the ~~debt collector or~~
2 collection agency in writing within the 30-day period that
3 the debt, or any portion thereof, is disputed, the ~~debt~~
4 ~~collector or~~ collection agency will obtain verification of
5 the debt or a copy of a judgment against the debtor and a
6 copy of the verification or judgment will be mailed to the
7 debtor by the ~~debt collector or~~ collection agency.

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

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

26 (c) The failure of a debtor to dispute the validity of a

1 debt under this Section shall not be construed by any court as
2 an admission of liability by the debtor.

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

4 (225 ILCS 425/9.4)

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

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

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

11 (1) A copy of a police report filed by the debtor
12 alleging that the debtor is the victim of an identity theft
13 crime for the specific debt being collected by the
14 collection agency ~~debt collector~~.

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

1 an item listed below is relevant to the debtor's allegation
2 of identity theft with respect to the debt in question:

3 (A) A statement that the debtor is a victim of
4 identity theft.

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

7 (C) Any other identification document that
8 supports the statement of identity theft.

9 (D) Specific facts supporting the claim of
10 identity theft, if available.

11 (E) Any explanation showing that the debtor did not
12 incur the debt.

13 (F) Any available correspondence disputing the
14 debt after transaction information has been provided
15 to the debtor.

16 (G) Documentation of the residence of the debtor at
17 the time of the alleged debt, which may include copies
18 of bills and statements, such as utility bills, tax
19 statements, or other statements from businesses sent
20 to the debtor and showing that the debtor lived at
21 another residence at the time the debt was incurred.

22 (H) A telephone number for contacting the debtor
23 concerning any additional information or questions or
24 direction that further communications to the debtor be
25 in writing only, with the mailing address specified in
26 the statement.

1 (I) To the extent the debtor has information
2 concerning who may have incurred the debt, the
3 identification of any person whom the debtor believes
4 is responsible.

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

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

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

13 (Signature)

14 (Date)"

15 (c) If a debtor notifies a ~~debt collector or~~ collection
16 agency orally that he or she is a victim of identity theft, the
17 ~~debt collector or~~ collection agency shall notify the debtor
18 orally or in writing, that the debtor's claim must be in
19 writing. If a debtor notifies a ~~debt collector or~~ collection
20 agency in writing that he or she is a victim of identity theft,
21 but omits information required pursuant to this Section, and if
22 the ~~debt collector or~~ collection agency continues ~~does not~~
23 ~~cease~~ collection activities, the ~~debt collector or~~ collection

1 agency must provide written notice to the debtor of the
2 additional information that is required or send the debtor a
3 copy of the Federal Trade Commission's ~~Affidavit of Identity~~
4 Theft Affidavit form.

5 (d) Upon receipt of the complete statement and information
6 described in subsection (a) of this Section, the collection
7 agency ~~debt collector~~ shall review and consider all of the
8 information provided by the debtor and other information
9 available to the ~~debt collector or~~ collection agency in its
10 file or from the creditor. The ~~debt collector or~~ collection
11 agency may recommence debt collection activities only upon
12 making a good faith determination that the information does not
13 establish that the debtor is not responsible for the specific
14 debt in question. The ~~debt collector or~~ collection agency must
15 notify the debtor ~~consumer~~ in writing of that determination and
16 the basis for that determination before proceeding with any
17 further collection activities. The ~~debt collector's or~~
18 collection agency's determination shall be based on all of the
19 information provided by the debtor and other information
20 available to the ~~debt collector or~~ collection agency in its
21 file or from the creditor.

22 (e) No inference or presumption that the debt is valid or
23 invalid or that the debtor is liable or not liable for the debt
24 may arise if the ~~debt collector or~~ collection agency decides
25 after the review described in subsection (d) to cease or
26 recommence the debt collection activities. The exercise or

1 non-exercise of rights under this Section is not a waiver of
2 any other right or defense of the debtor or collection agency
3 ~~debt collector~~.

4 (f) A ~~debt collector or~~ collection agency that (i) ceases
5 collection activities under this Section, (ii) does not
6 recommence those collection activities, and (iii) furnishes
7 adverse information to a consumer credit reporting agency, must
8 notify the consumer credit reporting agency to delete that
9 adverse information.

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

11 (225 ILCS 425/9.7)

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

13 Sec. 9.7. Enforcement under the Consumer Fraud and
14 Deceptive Business Practices Act. The Attorney General may
15 enforce the knowing violation of Section 9 (except for items
16 (2) through (4), (7) through (9), (11) through (13), and (23)
17 ~~(1) through (9) and (19)~~ of subsection (a)), 9.1, 9.2, 9.3, or
18 9.4 of this Act as an unlawful practice under the Consumer
19 Fraud and Deceptive Business Practices Act.

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

21 (225 ILCS 425/9.22) (from Ch. 111, par. 2034)

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

23 Sec. 9.22. Administrative Procedure Act. The Illinois
24 Administrative Procedure Act is hereby expressly adopted and

1 incorporated herein as if all of the provisions of that Act
2 were included in this Act, except that the provision of
3 subsection (d) of Section 10-65 of the Illinois Administrative
4 Procedure Act that provides that at hearings the licensee has
5 the right to show compliance with all lawful requirements for
6 retention, continuation or renewal of the license is
7 specifically excluded. For the purposes of this Act the notice
8 required under Section 10-25 of the Administrative Procedure
9 Act is deemed sufficient when mailed to the ~~last known~~ address
10 of record of a party.

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

12 (225 ILCS 425/11) (from Ch. 111, par. 2036)

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

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

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

1 (225 ILCS 425/13.1) (from Ch. 111, par. 2038.1)

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

3 Sec. 13.1. Collection Agency Licensing and Disciplinary
4 Board; members; qualifications; duties.

5 (a) There is created in the Department the Collection
6 Agency Licensing and Disciplinary Board composed of 7 members
7 appointed by the Secretary ~~Director~~. Five members of the Board
8 shall be employed in a collection agency registered under this
9 Act and 2 members of the Board shall represent the general
10 public, ~~and~~ shall not be employed by or possess an ownership
11 interest in any collection agency registered under this Act, ~~and~~
12 and shall have no family or business connection with the
13 practice of collection agencies.

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

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

23 (d) Members shall serve for a term of 4 years and until
24 their successors are appointed and qualified. No Board member, ~~7~~
25 ~~after the effective date of this amendatory Act of 1995,~~ shall

1 be appointed to more than 2 full consecutive terms. A partial
2 term of more than 2 years shall be considered a full term ~~The~~
3 ~~initial terms created by this amendatory Act of 1995 shall~~
4 ~~count as full terms for the purposes of reappointment to the~~
5 ~~Board.~~ Appointments to fill vacancies for the unexpired portion
6 of a vacated term shall be made in the same manner as original
7 appointments. All members shall serve until their successors
8 are appointed and qualified.

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

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

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

18 ~~The appointments of those Board members currently~~
19 ~~appointed shall end upon the effective date of this amendatory~~
20 ~~Act of 1995, and those Board members currently sitting at the~~
21 ~~effective date of this amendatory Act of 1995, shall be~~
22 ~~reappointed to the following terms by and in the discretion of~~
23 ~~the Director:~~

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

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

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

1 ~~and~~

2 ~~(4) two members shall be appointed to serve for 4~~
3 ~~years.~~

4 ~~All members shall serve until their successors are appointed~~
5 ~~and qualified.~~

6 ~~The Board members appointed to terms by this amendatory Act~~
7 ~~of 1995 shall be appointed as soon as possible after the~~
8 ~~effective date of this amendatory Act of 1995.~~

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

10 (225 ILCS 425/13.2) (from Ch. 111, par. 2038.2)

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

12 Sec. 13.2. Powers and duties of Department. The Department
13 shall exercise the powers and duties prescribed by the Civil
14 Administrative Code of Illinois for the administration of
15 licensing Acts and shall exercise such other powers and duties
16 necessary for effectuating the purposes of this Act.

17 ~~The Director shall promulgate rules consistent with the~~
18 ~~provisions of this Act, for its administration and enforcement,~~
19 ~~and may prescribe forms which shall be issued in connection~~
20 ~~therewith. The rules shall include standards and criteria for~~
21 ~~licensure and certification, and professional conduct and~~
22 ~~discipline.~~

23 ~~The Department shall consult with the Board in promulgating~~
24 ~~rules.~~

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

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

4 (2) Formulate rules required for the administration of
5 this Act.

6 (3) Obtain written recommendations from the Board
7 regarding standards of professional conduct, formal
8 disciplinary actions and the formulation of rules
9 affecting these matters. Notice of proposed rulemaking
10 shall be transmitted to the Board and the Department shall
11 review the Board's responses and any recommendations made
12 therein. ~~The Department shall notify the Board in writing~~
13 ~~with explanations of deviations from the Board's~~
14 ~~recommendations and responses.~~ The Department may ~~shall~~
15 solicit the advice of the Board on any matter relating to
16 the administration and enforcement of this Act.

17 (4) Maintain rosters of the names and addresses of all
18 registrants, and all persons whose registrations have been
19 suspended, revoked, or denied renewal for cause within the
20 previous calendar year. These rosters shall be available
21 upon written request and payment of the required fee as
22 established by rule.

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

24 (225 ILCS 425/14a) (from Ch. 111, par. 2039a)

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

1 Sec. 14a. Unlicensed practice; Injunctions. The practice
2 as a collection agency by any person ~~entity~~ not holding a valid
3 and current license under this Act is declared to be inimical
4 to the public welfare, to constitute a public nuisance, and to
5 cause irreparable harm to the public welfare. The Secretary
6 ~~Director~~, the Attorney General, the State's Attorney of any
7 county in the State, or any person may maintain an action in
8 the name of the People of the State of Illinois, and may apply
9 for injunctive relief in any circuit court to enjoin such
10 entity from engaging in such practice. Upon the filing of a
11 verified petition in such court, the court, if satisfied by
12 affidavit or otherwise that such entity has been engaged in
13 such practice without a valid and current license, may enter a
14 temporary restraining order without notice or bond, enjoining
15 the defendant from such further practice. Only the showing of
16 non-licensure ~~nonlicensure~~, by affidavit or otherwise, is
17 necessary in order for a temporary injunction to issue. A copy
18 of the verified complaint shall be served upon the defendant
19 and the proceedings shall thereafter be conducted as in other
20 civil cases except as modified by this Section. If it is
21 established that the defendant has been or is engaged in such
22 unlawful practice, the court may enter an order or judgment
23 perpetually enjoining the defendant from further practice. In
24 all proceedings hereunder, the court, in its discretion, may
25 apportion the costs among the parties interested in the action,
26 including cost of filing the complaint, service of process,

1 witness fees and expenses, court reporter charges and
2 reasonable attorneys' fees. In case of violation of any
3 injunctive order entered under the provisions of this Section,
4 the court may summarily try and punish the offender for
5 contempt of court. Such injunction proceedings shall be in
6 addition to, and not in lieu of, all penalties and other
7 remedies provided in this Act.

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

9 (225 ILCS 425/14b) (from Ch. 111, par. 2039b)

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

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

18 Any entity that has been previously convicted under any of
19 the provisions of this Act and that subsequently violates any
20 of the provisions of this Act is guilty of a Class 4 felony. In
21 addition, whenever any entity is punished as a subsequent
22 offender under this Section, the Secretary ~~Director~~ shall
23 proceed to obtain a permanent injunction against such entity
24 under Section 14a of this Act.

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

1 (225 ILCS 425/16)

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

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

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

1 in the discretion of the Department, be suspended, revoked, or
2 placed on probation, or the Department may take whatever
3 disciplinary action it considers proper, including limiting
4 the scope, nature, or extent of the person's practice or the
5 imposition of a fine, without a hearing, if the act or acts
6 charged constitute sufficient grounds for such action under
7 this Act. This written notice may be served by personal
8 delivery or certified mail to the respondent at the address of
9 record.

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

11 (225 ILCS 425/17)

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

13 Sec. 17. Record of hearing; transcript. The Department, at
14 its expense, shall preserve a record of all proceedings at the
15 formal hearing of any case. The notice of hearing, complaint,
16 all and other documents in the nature of pleadings, and written
17 motions filed in the proceedings, the transcript of testimony,
18 the report of the Board, and orders of the Department shall be
19 in the record of the proceedings. If the respondent orders from
20 the reporting service and pays for a transcript of the record
21 within the time for filing a motion for rehearing under Section
22 20, the 20 calendar day period within which a motion may be
23 filed shall commence upon the delivery of the transcript to the
24 respondent ~~The Department shall furnish a transcript of the~~
25 ~~record to any person interested in the hearing upon payment of~~

1 ~~the fee required under Section 2105-115 of the Department of~~
2 ~~Professional Regulation Law (20 ILCS 2105/2105-115).~~

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

4 (225 ILCS 425/18)

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

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

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

13 (b) The Secretary Director, the designated hearing
14 officer, and every member of the Board has ~~shall have~~ power to
15 administer oaths to witnesses at any hearing that the
16 Department is authorized to conduct and any other oaths
17 authorized in any Act administered by the Department.

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

1 proceedings for contempt.

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

3 (225 ILCS 425/19)

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

5 Sec. 19. Findings and recommendations ~~Board report~~. At the
6 conclusion of the hearing, the Board shall present to the
7 Secretary ~~Director~~ a written report of its findings of fact,
8 conclusions of law, and recommendations. The report shall
9 contain a finding whether or not the accused person violated
10 this Act or the rules adopted under this Act or failed to
11 comply with the conditions required in this Act or those rules.
12 The Board shall specify the nature of the violation or failure
13 to comply and shall make its recommendations to the Secretary
14 ~~Director~~.

15 The report of findings of fact, conclusions of law, and
16 recommendation of the Board shall be the basis for the
17 Department's order for refusing to issue, restore, or renew a
18 license, or otherwise disciplining a licensee, refusal or for
19 the granting of a license ~~certificate of registration~~. If the
20 Secretary ~~Director~~ disagrees ~~in any regard~~ with the report,
21 findings of fact, conclusions of law, and recommendations
22 ~~report~~ of the Board, the Secretary ~~Director~~ may issue an order
23 in contravention of the Board's recommendations ~~report~~. ~~The~~
24 ~~Director shall provide a written report to the Board on any~~
25 ~~deviation and shall specify with particularity the reasons for~~

1 ~~that action in the final order.~~ The finding is not admissible
2 in evidence against the person in a criminal prosecution
3 brought for the violation of this Act, but the hearing and
4 finding are ~~is~~ not a bar to a criminal prosecution brought for
5 the violation of this Act.

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

7 (225 ILCS 425/20)

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

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

1 ~~licensee respondent~~ orders a transcript of the record from the
2 reporting service and pays for it within the time for filing a
3 motion for rehearing, the 20 ~~calendar~~ day period within which a
4 motion for rehearing may be filed shall commence upon the
5 delivery of the transcript to the applicant or licensee
6 ~~respondent~~.

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

8 (225 ILCS 425/21)

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

10 Sec. 21. Secretary; rehearing ~~Rehearing~~. Whenever the
11 Secretary ~~Director~~ is not satisfied that substantial justice
12 has been done in the revocation, suspension, or refusal to
13 issue, restore, or renew a license, or other discipline of an
14 applicant or licensee ~~a certificate of registration~~, the
15 Secretary ~~Director~~ may order a rehearing by the same or other
16 examiners.

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

18 (225 ILCS 425/22)

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

20 Sec. 22. Appointment of a hearing ~~Hearing~~ officer. The
21 Secretary ~~has Director shall have~~ the authority to appoint any
22 attorney duly licensed to practice law in the State of Illinois
23 to serve as the hearing officer in any action for refusal to
24 issue, restore, or renew a certificate of registration or to

1 discipline a licensee ~~registrant or person holding a~~
2 ~~certificate of registration~~. The hearing officer shall have
3 full authority to conduct the hearing. A Board member or
4 members may, but are not required to, attend hearings. The
5 hearing officer shall report his or her findings of fact,
6 conclusions of law, and recommendations to the Board ~~and the~~
7 ~~Director~~. The Board shall ~~have 60 calendar days from receipt of~~
8 ~~the report to~~ review the report of the hearing officer and
9 present its findings of fact, conclusions of law, and
10 recommendations to the Secretary and to all parties to the
11 proceeding ~~Director~~. ~~If the Board fails to present its report~~
12 ~~within the 60 calendar day period, the Director may issue an~~
13 ~~order based on the report of the hearing officer~~. If the
14 Secretary ~~Director~~ disagrees with the recommendation of the
15 Board or of the hearing officer, the Secretary ~~Director~~ may
16 issue an order in contravention of the recommendation.

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

18 (225 ILCS 425/23)

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

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

24 (1) ~~That~~ the signature is the genuine signature of the
25 Secretary; Director.

1 (2) ~~That~~ the Secretary ~~Director~~ is duly appointed and
2 qualified; and ~~and~~.

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

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

6 (225 ILCS 425/24)

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

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

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

21 (225 ILCS 425/26)

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

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

24 (a) All final administrative decisions of the Department

1 are subject to judicial review under the Administrative Review
2 Law and its rules. The term "administrative decision" is
3 defined as in Section 3-101 of the Code of Civil Procedure.

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

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

9 (225 ILCS 425/27)

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

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

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

22 (225 ILCS 425/30 new)

23 Sec. 30. Expiration, renewal and restoration of
24 registration. The expiration date and renewal period for each

1 registration shall be set by rule. A collection agency whose
2 registration has expired may reinstate its registration at any
3 time within 5 years after the expiration thereof, by making a
4 renewal application and by paying the required fee.

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

20 Any collection agency whose registration has expired for
21 more than 5 years may have it restored by applying to the
22 Department, paying the required fee, and filing acceptable
23 proof of fitness to have the registration restored as set by
24 rule.

1 Sec. 35. Returned checks; fines. Any person who delivers a
2 check or other payment to the Department that is returned to
3 the Department unpaid by the financial institution upon which
4 it is drawn shall pay to the Department, in addition to the
5 amount already owed to the Department, a fine of \$50. The fines
6 imposed by this Section are in addition to any other discipline
7 provided under this Act for unregistered practice or practice
8 on a non-renewed registration. The Department shall notify the
9 entity that payment of fees and fines shall be paid to the
10 Department by certified check or money order within 30 calendar
11 days of the notification. If, after the expiration of 30 days
12 from the date of notification, the person has failed to submit
13 the necessary remittance, the Department shall automatically
14 terminate the registration or deny the application, without
15 hearing. If, after termination or denial, the entity seeks a
16 registration, it shall apply to the Department for restoration
17 or issuance of the registration and pay all fees and fines due
18 to the Department. The Department may establish a fee for the
19 processing of an application for restoration of a registration
20 to pay all expenses of processing this application. The
21 Secretary may waive the fines due under this Section in
22 individual cases where the Secretary finds that the fines would
23 be unreasonable or unnecessarily burdensome.

24 (225 ILCS 425/40 new)

25 Sec. 40. Unregistered practice; cease and desist.

1 Whenever, in the opinion of the Department, a person violates
2 any provision of this Act, the Department may issue a rule to
3 show cause why an order to cease and desist should not be
4 entered against that person. The rule shall clearly set forth
5 the grounds relied upon by the Department and shall allow at
6 least 7 days from the date of the rule to file an answer
7 satisfactory to the Department. Failure to answer to the
8 satisfaction of the Department shall cause an order to cease
9 and desist to be issued.

10 (225 ILCS 425/45 new)

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

24 (225 ILCS 425/50 new)

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

5 (225 ILCS 425/55 new)

6 Sec. 55. Confidentiality. All information collected by the
7 Department in the course of an examination or investigation of
8 a registrant or applicant, including, but not limited to, any
9 complaint against a registrant filed with the Department and
10 information collected to investigate any such complaint, shall
11 be maintained for the confidential use of the Department and
12 shall not be disclosed other than in the course of a formal
13 hearing as determined by the Department. The Department may not
14 disclose the information to anyone other than law enforcement
15 officials, other regulatory agencies that have an appropriate
16 regulatory interest as determined by the Secretary, or a
17 party presenting a lawful subpoena to the Department.
18 Information and documents disclosed to a federal, State,
19 county, or local law enforcement agency shall not be disclosed
20 by the agency for any purpose to any other agency or person. A
21 formal complaint filed against the registrant by the Department
22 or any order issued by the Department against a registrant or
23 applicant shall be a public record, except as otherwise
24 prohibited by law.

1 (225 ILCS 425/6 rep.)

2 (225 ILCS 425/6a rep.)

3 (225 ILCS 425/10 rep.)

4 (225 ILCS 425/13 rep.)

5 (225 ILCS 425/13.3 rep.)

6 (225 ILCS 425/14 rep.)

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

9 Section 99. Effective date. This Act takes effect upon
10 becoming law.".