

AN ACT concerning regulation.

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

Section 1. Short title. This Act may be cited as the Collateral Recovery Act.

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

Section 10. Definitions. In this Act:

"Assignment" means a written authorization by a legal owner, lien holder, lessor, lessee, or licensed repossession agency authorized by a legal owner, lien holder, lessor or lessee to locate or repossess, involuntarily or voluntarily, any collateral, including, but not limited to, collateral registered under the Illinois Vehicle Code that is subject to a security agreement that contains a repossession clause or is the subject of a rental or lease agreement.

"Assignment" also means a written authorization by an employer to recover any collateral entrusted to an employee or former employee if the possessor is wrongfully in the

possession of the collateral. A photocopy, facsimile copy, or electronic copy of an assignment shall have the same force and effect as an original written assignment.

"Branch office" means each additional office and secured storage facility location of a repossession agency (i) located in and conducting business within the State of Illinois and (ii) operating under the same name as the repossession agency where business is actively conducted or is engaged in the business authorized by the licensure. Each branch office must be individually licensed.

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

"Commission" means the Illinois Commerce Commission.

"Debtor" means any person or entity obligated under a lease, rental, or security agreement.

"Financial institution" means a bank, a licensee under the Consumer Installment Loan Act, savings bank, savings and loan association, or credit union organized and operating under the laws of this or any other state or of the United States, and any subsidiary or affiliate thereof.

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

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

"Licensed recovery manager" means a person who possesses a valid license in accordance with the provisions of this Act and is in control or management of an Illinois repossession agency.

"Personal effects" means any property contained within or on repossessed collateral, or property that is not permanently affixed to the collateral, that is not the property of the legal owner.

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

"Recovery ticket" means a serialized record obtained from the Commission for any repossessed vehicle or collateral evidencing that any person, business, financial institution, automotive dealership, or repossession agency who shows a recovery ticket has paid the recovery ticket fee to the Commission.

"Remote storage location" means a secured storage facility of a licensed repossession agency designated for the storage of collateral that is a secure building or has a perimeter that is secured with a fencing construction that makes the area not accessible to the public. A remote storage location shall not transact business with the public and shall provide evidence of applicable insurance to the Commission that specifies the

licensed repossession agency as the primary policy holder. A remote storage location shall be located in a commercially zoned area physically located in Illinois.

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

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

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

(3) Securing evidence concerning repossession and recovery to be used before any court, board, office, or investigating committee.

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

(5) The possession of collateral.

(6) The prevention of the misappropriation or concealment of chattel, vehicles, goods, objects, documents, or papers.

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

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

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

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

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

(5) A collection agency licensed under the Collection Agency Act when its activities are limited to assisting an owner in the recovery of property that is not collateral, as defined in this Act.

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

"Secured storage facility" means an area located on the same premises as a repossession agency office or branch office that is designated for the storage of collateral and is a secure building or has a perimeter that is secured with a fencing construction that makes the area not accessible to the public. Each repossession agency office or branch office must maintain a secured storage facility.

"Security agreement" means an obligation, pledge,

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

Section 15. Powers of the Commission.

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

(b) The Commission shall have the following powers:

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

(2) To adopt reasonable and proper rules covering the exercise of powers conferred upon it by this Act, and reasonable rules governing investigations, hearings, and proceedings under this Act.

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

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

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

(c) The staff of the Commission shall have full power and authority in the performance of their official duties to enter into or upon any place, building, or premises of any repossession agency location or branch office location at any reasonable time for the purpose of inspecting such agency operating under this Act. The Commission shall not set pricing fees for repossessions, personal property storage, skip tracing, or other related services provided by repossession agencies to their clients.

Section 20. Rulemaking enforcement.

(a) The Commission may adopt any rules and procedures necessary to enforce and administer the provisions of this Act.

(b) The Commission may, by administrative rule, modify any rules or procedures or adjust any Commission fees necessary to regulate and enforce the provisions of this Act.

Section 25. Recovery ticket.

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

(1) The date and time of the repossession.

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

(3) The agency name, the financial institution, and the recovery permit number.

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

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

(c) A fee for the recovery ticket must be collected by the Commission at the time of purchase. The cost for each recovery ticket is \$10 and is nonrefundable. Recovery tickets must only be sold in lots of 50 and 100. Only an Illinois licensed repossession agency may purchase recovery tickets.

If a repossession agency's license is revoked by the Commission, then the repossession agency must return any and all unused recovery tickets to the Commission immediately upon

license revocation. No refund from the Commission shall be issued for the return of unused recovery tickets.

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

Section 30. License or registration required.

(a) It shall be unlawful for any person or entity to repossess a vehicle or collateral in this State, attempt to repossess a vehicle or collateral in this State, or to hold himself, herself, or itself out to be a repossession agency unless licensed under this Act.

(b) It shall be unlawful for any person to repossess a vehicle or collateral in this State, attempt to repossess a vehicle or collateral in this State, or to hold himself or herself out to be a licensed recovery manager unless licensed under this Act.

(c) It shall be unlawful for any person to repossess a vehicle or collateral in this State, attempt to repossess a vehicle or collateral in this State, or hold himself or herself out to be a repossession agency employee unless he or she holds a valid recovery permit issued by the Commission under this Act.

(d) This Act does not apply to a financial institution or

the employee of a financial institution when engaged in an activity otherwise covered by this Act if the activity is conducted by the employee on behalf of that financial institution.

(e) This Act does not apply to a towing company or towing operator when an employee or agent of the creditor financial institution is present at the site from which the vehicle is towed.

Section 35. Application for repossession agency licensure.

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

(b) Every application shall state, in addition to any other requirements, (i) the name of the applicant, (ii) the name under which the applicant shall do business, (iii) the proposed location of the agency by number, street, and city, and (iv) the proposed location of the agency's remote storage location or locations by number, street, and city, (v) the proposed location of the Agency's branch office or branch offices by number, street, and city, and (vi) the usual business hours that the agency shall maintain.

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

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

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

(e) If the applicant for repossession agency licensure is a partnership, then the application shall include (i) a statement of the names and full residential addresses of all partners in the business and (ii) a sworn statement signed by each partner verifying the name of the person who is a licensed recovery manager and shall be in control or management of the business. If a licensed recovery manager who is not a partner shall be in control or management of the agency, then he or she must also sign the sworn statement. The application shall also state

whether any of the partners has ever used an alias.

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

(g) If the applicant for licensure as a repossession agency is a limited liability company, then the application shall include (i) the names and full residential addresses of all members and (ii) a sworn statement signed by each member verifying the name of the person who is a licensed recovery manager and shall be in control or management of the agency. If a licensed recovery manager who is not a member shall be in control or management of the agency, then he or she must also sign the sworn statement. The application shall also state whether any of the members has ever used an alias.

(h) Each individual, partner of a partnership, officer of a corporation, or member of a limited liability company shall submit with the application a copy of one form of personal identification upon which must appear a photograph taken within

one year immediately preceding the date of the filing of the application.

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

(j) The Commission may require any additional information that, in the judgment of the Commission, shall enable the Commission to determine the qualifications of the applicant for licensure.

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

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

(m) A repossession agency license may be transferable upon prior notice to the Commission and upon completion of all requirements relative to the application process for repossession agency licensure.

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

Section 37. Enforcement. It shall be unlawful for any repossession agency, employee, or agent of a repossession agency to operate in this State without a valid license or recovery permit issued by the Commission. It shall be unlawful for any person or entity to repossess a vehicle or collateral in the State without a recovery ticket issued by the Commission. The Commission may, at any time during the term of the license, make inquiry into the licensee's management or conduct of business to determine compliance with the provisions of this Act or the rules adopted pursuant to this Act. State, county, and local municipalities shall work in conjunction with the Commission in the enforcement of this Act.

Section 40. Qualifications for recovery manager; identification card.

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

(1) Is 21 years of age or older.

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

(3) Has completed no less than 2,500 hours of actual compensated collateral recovery work as an employee of a repossession agency, a financial institution, or a vehicle dealer within the 5 years immediately preceding the filing

of an application, acceptable proof of which must be submitted to the Commission.

(4) Has submitted to the Commission 2 sets of fingerprints, which shall be checked against the fingerprint records on file with the Illinois State Police and the Federal Bureau of Investigation in the manner set forth in Section 60 of this Act.

(5) Has successfully completed a certification program approved by the Commission.

(6) Has paid the required application fees.

(b) Upon the issuance of a recovery manager license, the Commission shall issue the license holder a suitable pocket identification card that shall include a photograph of the license holder. The identification card must contain the name of the license holder and any other information required by the Commission.

(c) A recovery manager license is not transferable.

Section 45. Repossession agency employee requirements.

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

(1) No person may be issued a recovery permit who meets

any of the following criteria:

(A) Is younger than 21 years of age.

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

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

(D) Has not successfully completed a certification program approved by the Commission.

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

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

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

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

(D) Any conviction of a felony, except as provided for in Section 85.

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

(b) Each applicant for a recovery permit shall have his or her fingerprints submitted to the Commission by a Live Scan fingerprint vendor certified by the Illinois State Police under the Private Detective, Private Alarm, Private Security, Fingerprint Vendor, and Locksmith Act of 2004 in an electronic format that complies with the form and manner for requesting and furnishing criminal history record information as prescribed by the Illinois State Police. These fingerprints shall be checked against the Illinois State Police and Federal Bureau of Investigation criminal history record databases now and hereafter filed. The Commission shall charge applicants a fee for conducting the criminal history records check, which shall not exceed the actual cost of the records check. The Illinois Commerce Commission Police shall furnish, pursuant to positive identification, records of Illinois convictions to the Commission. The Commission, in its discretion, may allow an applicant who does not have reasonable access to a designated vendor to provide his or her fingerprints in an alternative manner. The Commission, in its discretion, may also use other procedures in performing or obtaining criminal history records

checks of applicants. Instead of submitting his or her fingerprints, an individual may submit proof that is satisfactory to the Commission that an equivalent security clearance has been conducted.

(c) Qualified applicants shall purchase a recovery permit from the Commission and in a form that the Commission prescribes. The Commission shall notify the submitting person within 10 days after receipt of the application of its intent to issue or deny the recovery permit. The holder of a recovery permit shall carry the recovery permit at all times while actually engaged in the performance of the duties of his or her employment. No recovery permit shall be effective unless accompanied by a license issued by the Commission. Expiration and requirements for renewal of recovery permits shall be established by rule of the Commission. Possession of a recovery permit does not in any way imply that the holder of the recovery permit is employed by any agency unless the recovery permit is accompanied by the employee identification card required by subsection (e) of this Section.

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

(1) A photograph taken within 10 days after the date that the employee begins employment with the employer. The photograph shall be replaced with a current photograph

every 3 calendar years.

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

(3) All correspondence or documents relating to the character and integrity of the employee received by the employer from any official source or law enforcement agency.

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

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

(f) No employer may issue an employee identification card to any person who is not employed by the employer in accordance with this Section or falsely state or represent that a person is or has been in his or her employ. It is unlawful for an applicant for registration to file with the Commission the fingerprints of a person other than himself or herself or to fail to exercise due diligence in resubmitting replacement

fingerprints for those employees who have had original fingerprint submissions returned as unclassifiable. An agency shall inform the Commission within 15 days after contracting or employing a licensed repossession agency employee. The Commission shall develop a registration process by rule.

(g) Every employer shall obtain the identification card of every employee who terminates employment with the employer. An employer shall immediately report an identification card that is lost or stolen to the local police department having jurisdiction over the repossession agency location.

(h) No agency may employ any person to perform any activity under this Act unless the person possesses a valid license or recovery permit under this Act.

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

(j) A person employed under this Section shall have 15 business days within which to notify the Commission of any change in employer, but may continue working under any other recovery permits granted as an employee or independent contractor.

(k) This Section applies only to those employees of licensed repossession agencies whose duties include actual repossession of collateral.

Section 50. Fees.

(a) The license and permit fees required under this Act are as follows:

- (1) Class "R" license (recovery agency), \$825.
- (2) Class "RR" license (branch office), \$425.
- (3) Class "MR" license (recovery agency manager), \$325.
- (4) Class "E" recovery permit, \$75.
- (5) Class "EE" recovery permit (recovery agent intern), \$75.

An agency shall submit an application to register any remote storage location or locations. The Commission shall develop by rule the requirements for registering remote storage locations. The fee for each registration shall not exceed \$300 as set by the Commission.

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

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

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

Section 60. Criminal background check. The Commission shall require that each individual, partner of a partnership, officer of a corporation, or owner of a limited liability company, as part of the application process, authorize a criminal history records check to determine if such applicant has ever been charged with a crime and, if so, the disposition of those charges. Upon this authorization, each individual, partner of a partnership, officer of a corporation, or owner of a limited liability company shall submit his or her fingerprints to the Commission in the form and manner prescribed by the Illinois Commerce Commission Police. These fingerprints shall be checked against the fingerprint records now and hereafter filed in the Illinois State Police and

Federal Bureau of Investigation criminal history records databases. The Commission shall charge a fee for conducting the criminal history records check, which shall be deposited in the Transportation Regulatory Fund and shall not exceed the actual cost of the records check. The Illinois Commerce Commission Police shall provide information concerning any criminal charges, and their disposition, now or hereafter filed against an applicant upon request of the Commission when the request is made in the form and manner required by the Illinois Commerce Commission Police.

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

(a) As a condition of licensure, a licensed recovery manager must, at all times, be in control or management of the repossession agency. Each licensed repossession agency and licensed branch office location must have a licensed recovery manager.

(b) A licensed recovery manager may only be in control of one repossession agency or branch office location at one time. Upon written request by a representative of an agency within 10 days after the loss of the licensed recovery manager in control due to the death of the license holder or because of an unanticipated termination of his or her employment, the Commission shall issue a temporary permit allowing the continuing operation of a previously licensed repossession

agency. The temporary permit shall be valid for no more than 90 days. Upon written request by the representative of the agency, an extension of an additional 90 days may be granted by the Commission for good cause shown. No more than 2 extensions may be granted to any repossession agency. A temporary permit may not be issued for loss of the licensed recovery manager in control or management if that loss is due to disciplinary action taken by the Commission.

(c) Whenever a licensed recovery manager in control or management of a repossession agency ceases to be in control or management, the licensed agency shall file notice with the Commission within 30 days after the cessation. If the repossession agency fails to give written notice at the end of the 30-day period, then the agency's license shall automatically be suspended. If the notice is filed, then the license shall remain in force for a period of 90 days after the filing of the notice. At the end of the 90-day period or an additional period, not to exceed one year, as specified by the Commission, if written notice is not given that a licensed recovery manager is then in control or management of the agency, then the agency's license shall automatically be suspended. A license suspended under this Section may be reinstated upon payment of a reinstatement fee, to be determined by the Commission, and submission of a reinstatement application.

(d) Except as otherwise provided in this Act, no person may

serve as the licensed recovery manager in control or management of a licensed repossession agency if that person has ever had a repossession agency's license revoked or if the person was a partner, managing employee, owner, or officer of a repossession agency the license of which has been revoked for cause.

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

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

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

(a) In the case of the death of a person who is licensed individually as a repossession agency, a member of the deceased's immediate family shall be entitled to continue operating the agency under the same license for up to 120 days following the date of death, provided that written notice is given to the Commission within 30 days following the date of death. At the end of the 120-day period, the license shall automatically be revoked.

(b) In the case of the death or disassociation of a partner of a partnership licensed as a repossession agency, the company shall notify the Commission, in writing, within 30 days from

the death or disassociation of the partner. If they fail to notify the Commission within the 30-day period, then the license shall automatically be revoked at the end of that period. If proper notice is given, then the license shall remain in force for 90 days following the date of death or disassociation of the partner. At the end of the 90-day period, the license shall automatically be revoked.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(f) At least 90 days prior to the expiration of a license or recovery permit, the Commission shall mail to the license or permit holder a renewal form in the form and manner prescribed

by the Commission. The license holder or recovery permit holder must complete and mail the renewal form to the Commission, pay any fines assessed, and pay any renewal fee required by the Commission.

(g) Any person or entity that has permitted a license or recovery permit to expire may have that license or recovery permit restored by making an application to the Commission within one year after the expiration of a repossession agency's license or a qualified manager license or within 30 days after the expiration of a recovery permit, filing proof acceptable to the Commission of fitness to have the license or recovery permit restored, and paying the required restoration fee. However, any person whose license or recovery permit expired while (i) in federal service on active duty with the Armed Forces of the United States or called into service or training with the State militia or (ii) in training or education under the supervision of the United States preliminary to induction into military service may have his or her license or recovery permit renewed or restored without paying any lapsed renewal fees, if within 2 years after honorable termination of the service, training, or education, except under condition other than honorable, he or she furnishes the Commission with satisfactory evidence to the effect that he or she has been so engaged and that the service, training, or education has been so terminated.

(h) A suspended repossession agency license, recovery

manager license, or recovery permit is subject to expiration as set forth in this Section. Renewal of a certificate or registration card does not entitle the license holder or recovery permit holder, while the license or recovery permit remains suspended and until it is reinstated, to engage in the licensed or permitted activity.

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

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

(k) Any repossession agency license holder, recovery manager license holder, or recovery permit holder whose license

or recovery permit is nonrenewed or on inactive status shall not engage in the practice of recovery in this State or use the title or advertise that he, she, or it performs the services of a licensed repossession agency, licensed recovery manager, or repossession agency employee.

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

(m) A repossession agency license, recovery manager license, or recovery permit that is not renewed within 3 years after its expiration may not be renewed, restored, reinstated, or reissued thereafter. The holder of the license or recovery permit may obtain a new license or recovery permit only upon compliance with all of the provisions of this Act concerning the issuance of original licenses or recovery permits.

Section 80. Refusal, revocation, or suspension.

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

following causes:

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

(2) Violations of this Act or its rules.

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

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

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

(6) Violation of any court order from any State or public agency engaged in the enforcement of payment of child support arrearages or for noncompliance with certain processes relating to paternity or support proceeding.

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

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

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

(b) The Commission may refuse to issue or may suspend the

license or recovery permit of any person or entity who fails to file a return, pay the tax, penalty, or interest shown in a filed return, or pay any final assessment of tax, penalty, or interest, as required by any tax Act administered by the Department of Revenue, until the time the requirements of the tax Act are satisfied. The Commission may take into consideration any pending tax disputes properly filed with the Department of Revenue.

Section 85. Consideration of past crimes.

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

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

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

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

(4) The extent to which the applicant has complied with

any terms of parole, probation, restitution, or any other sanctions lawfully imposed against the applicant.

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

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

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

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

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

(4) Whether the license holder or recovery permit holder has complied with any terms of parole, probation, restitution, or any other sanctions lawfully imposed against him or her.

(5) If applicable, evidence of expungement proceedings.

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

Section 90. Insurance required. No repossession agency, branch office, or remote storage location license shall be

issued unless the applicant first files with the Commission a certification of insurance evidencing coverage in the amount required under this Section. The coverage shall provide the Commission as an additional insured for the purpose of receiving all notices of modifications or cancellations of such insurance. Coverage shall be written by an insurance company that is lawfully engaged to provide insurance coverage in Illinois. Coverage shall provide for a combined single limit policy in the amount of at least \$1,000,000 per occurrence and a \$3,000,000 aggregate policy, which shall include commercial general liability for wrongful repossession, garage keepers, on hook, and drive-away and shall be a direct primary policy. Coverage shall provide for a dishonesty bond policy in the amount of at least \$1,000,000. Coverage shall insure for the liability of all employees licensed or registered by the Commission while acting in the course of their employment. The agency shall notify the Commission immediately upon cancellation of the insurance policy, whether the cancellation was initiated by the insurance company or the insured agency. The agency's license shall automatically be suspended on the date of cancellation of the policy, unless new evidence of insurance is provided to the Commission prior to the effective date of cancellation.

Section 95. Display of license required. At all times, a repossession agency's license shall be conspicuously displayed

at the agency location on record with the Commission.

Section 100. Local government; home rule.

(a) Nothing in this Act shall prevent local authorities in any municipality, county, or municipality and county, by ordinance and within the exercise of the police power of the municipality or county, from requiring repossession agency and recovery manager license holders to register their names and file a copy of their State identification cards with the municipality, county, or municipality and county.

(b) A municipality or county, including a home rule unit, may not regulate individuals and entities engaged in the business of collateral recovery in a manner that is less stringent than the standards established under this Act. To the extent that any regulation by a municipality or county, including a home rule unit, is less stringent than the standards established under this Act, it is superseded by this Act. This Section is a limitation under subsection (i) of Section 6 of Article VII of the Illinois Constitution on the concurrent exercise by home rule units of powers and functions exercised by the State.

Section 105. Notification of law enforcement. Prior to a repossession, the licensed repossession agency or repossession agency employee shall notify the appropriate law enforcement agency located in the jurisdiction in which the licensed

repossession agency or repossession agency employee plans to perform the repossession. Within 30 minutes after the completion of the repossession, the licensed repossession agency or repossession agency employee must notify the appropriate law enforcement agency that the repossession has occurred within its jurisdiction.

Section 110. Repossession of vehicles.

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

(b) The licensed repossession agency shall confirm with the legal owner of a recovered vehicle whether the legal owner holds a security interest in the personal effects or other property contained in or on the recovered vehicle.

(c) If personal effects or other property not covered by a security agreement are contained in or on a recovered vehicle at the time it is recovered, then the personal effects and other property not covered by a security agreement must be completely and accurately inventoried, and a record of the inventory shall be maintained on file with the licensed repossession agency for a period of 2 years following the date of repossession. The licensed repossession agency shall hold

all personal effects and other property not covered by a security agreement until the licensed repossession agency either returns the personal effects and other property to the debtor or disposes of the personal effects and other property in accordance with this Section.

(d) Within 5 working days following the date of repossession, the licensed repossession agency shall give written notification to the debtor of the whereabouts of personal effects or other property inventoried. At least 45 days prior to disposing of such personal effects or other property, the licensed repossession agency shall, by United States Postal Service certified mail, notify the debtor of the intent to dispose of the property. Should the debtor, or his or her lawful designee, appear to retrieve the personal property prior to the date on which the licensed repossession agency is allowed to dispose of the property, the licensed repossession agency shall surrender the personal property to that individual upon payment of any reasonably incurred expenses for inventory and storage.

(e) If personal property is not claimed within 45 days of the notice of intent to dispose, then the licensed repossession agency may dispose of the personal property at its discretion, except that illegal items or contraband shall be surrendered to a law enforcement agency, and the licensed repossession agency shall retain a receipt or other proof of surrender as part of the inventory and disposal records it maintains. The inventory

of the personal property and the records regarding any disposal of personal property shall be maintained for a period of 2 years in the permanent records of the licensed repossession agency and shall be made available upon request to the Commission.

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

Section 120. Payments; penalty for insufficient funds. Any person or entity who delivers a check or other payment to the Commission that is returned to the Commission unpaid by the financial institution upon which it is drawn shall pay to the Commission, in addition to the amount already owed to the Commission, a fine amount as determined by the Commission. The fines imposed by this Section are in addition to any other discipline provided under this Act prohibiting unlicensed or unregistered practice or practice on a nonrenewed license or recovery permit. The Commission shall notify the person or entity that fees and fines shall be paid to the Commission by certified check or money order within 30 calendar days after notification. If, after the expiration of 30 days from the date of notification, the person or entity has failed to submit the

necessary remittance, then the Commission shall automatically terminate the license or recovery permit or deny the application without hearing. If, after termination or denial, the person seeks a license or recovery permit, then the person or entity shall apply to the Commission for restoration or issuance of the license or recovery permit and pay all fees and fines due to the Commission. The Commission may establish a fee for the processing of an application for restoration of a license or recovery permit to pay all expenses of processing the application. The Commission may waive the fines due under this Section in individual cases where the Commission finds that the fines would be unreasonable or unnecessarily burdensome.

Section 125. Filings, formal complaints. All repossession activity correspondence relating to complaints and alleged violations of this Act shall be submitted to the Commission in writing on forms and in a manner prescribed by the Commission.

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

Section 135. Violations; injunctions; cease and desist

order.

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

(b) If any person or entity practices as a repossession agency or a recovery manager or holds himself, herself, or itself out as such without having a valid license or recovery permit under this Act, then any license holder or recovery permit holder, any person injured thereby, or any resident of or legal entity within the State may, in addition to the Commission, petition for relief as provided in subsection (a) of this Section.

(c) Whenever, in the opinion of the Commission, any person or entity violates any provision of this Act, the Commission may issue a rule to show cause why an order to cease and desist should not be entered against that person or entity. The rule

shall clearly set forth the grounds relied upon by the Commission and shall provide a period of 7 days from the date of the rule to file an answer to the satisfaction of the Commission. Failure to answer to the satisfaction of the Commission shall cause an order to cease and desist to be issued immediately.

Section 140. Investigation; notice and hearing. The Commission may investigate the actions or qualifications of any person or entity holding or claiming to hold a license or recovery permit. The Commission may take any immediate disciplinary action that the Commission may deem proper if a person or entity repossesses a vehicle or collateral in the State without a valid license or permit. For all other disciplinary actions against a license or recovery permit holder, the Commission shall (i) notify the accused in writing of any charges made and the time and place for a hearing on the charges at least 30 days before the date set for the hearing, (ii) direct the accused to file a written answer to the charges under oath within 30 days after the service on the person or entity of such notice, and (iii) inform the accused that failure to file an answer shall result in a default judgment against the person or entity and the person's or entity's license or recovery permit may be suspended, revoked, placed on probationary status, or other disciplinary action taken with regard to the license or recovery permit as the Commission may

deem proper.

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

The written answer shall be served by personal delivery, certified delivery, or certified or registered mail to the Commission. At the time and place fixed in the notice, the Commission shall proceed to hear the charges and the parties or their counsel shall be accorded ample opportunity to present such statements, testimony, evidence, and argument as may be pertinent to the charges or to the defense thereto. The Commission may continue such hearing from time to time. At the discretion of the Commission, the accused person's or entity's license or recovery permit may be suspended or revoked, if the evidence constitutes sufficient grounds for such action under this Act.

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

Section 150. Subpoenas; oaths; attendance of witnesses. The Commission has the power to subpoena and to bring before it any person and to take testimony either orally or by deposition, or both, with the same fees and mileage and in the same manner as is prescribed in civil cases in the courts of this State. The Commission and the designated hearing officer have the power to administer oaths to witnesses at any hearing that the Commission is authorized to conduct and any other oaths authorized in any Act administered by the Commission. Any circuit court may, upon application of the Commission or its designee or of the applicant, license holder, or recovery permit holder against whom proceedings under this Act are pending, enter an order requiring the attendance of witnesses and their testimony, and the production of documents, papers, files, books, and records in connection with any hearing or investigation. The court may compel obedience to its order by proceedings for contempt.

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

Section 160. Rehearing. In any hearing involving disciplinary action against a license holder or recovery permit holder, a copy of the Commission's report shall be served upon the respondent by the Commission, either personally or as provided in this Act for the service of the notice of hearing. Within 20 calendar days after service, the respondent may present to the Commission a motion in writing for a rehearing that shall specify the particular grounds for rehearing. If no motion for rehearing is filed, then upon the expiration of the time specified for filing a motion, or if a motion for rehearing is denied, then upon denial, the Commission may enter an order in accordance with its own recommendations except as provided in this Act. If the respondent orders from the reporting service, and pays for, a transcript of the record within the time for filing a motion for rehearing, then the 20

calendar day period within which a motion may be filed shall commence upon the delivery of the transcript to the respondent.

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

Section 170. Hearing by other examiner. Whenever the Commission is not satisfied that substantial justice has been done in revoking or suspending a license or recovery permit, or refusing to issue or renew a license or recovery permit, the Commission may order a rehearing.

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

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

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

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

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

Section 190. Summary suspension. The Commission may summarily suspend the license of a repossession agency, the license of a recovery manager, or the recovery permit of an employee without a hearing, simultaneously with the institution of proceedings for a hearing provided for in this Act, if the Commission finds that evidence in its possession indicates that a repossession agency's, recovery manager's, or

employee's continuation in the business of collateral recovery would constitute an imminent danger to the public. In the event that the Commission summarily suspends a license or recovery permit without a hearing, a hearing by the Commission must be held within 30 calendar days after the suspension has occurred.

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

Section 200. Violations; criminal penalties. Any person who is found to have violated any provision of this Act is guilty of a Class A misdemeanor for the first offense, and a Class 4 felony for a second or subsequent offense.

Section 205. Illinois Administrative Procedure Act. The Illinois Administrative Procedure Act is expressly adopted and incorporated in this Act as if all of the provisions of that Act were included in this Act. For the purpose of this Act, the notice required under Section 10-25 of the Illinois Administrative Procedure Act is deemed sufficient when mailed

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to the last known address of a party.

Section 900. The Regulatory Sunset Act is amended by adding Section 4.32 as follows:

(5 ILCS 80/4.32 new)

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

The Collateral Recovery Act.

Section 999. Effective date. This Act takes effect on July 1, 2012.