



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

SB0901

Introduced 2/7/2017, by Sen. Pamela J. Althoff

SYNOPSIS AS INTRODUCED:

See Index

Amends the Collection Agency Act. Allows the Secretary of Financial and Professional Regulation to require participation in a multi-state licensing system for licensing under the Act. Allows the multi-state licensing system to charge an administrative fee. Removes a requirement to file an annual trust account financial report. Requires applicants and licensees to file an email address of record and allows the Department of Financial and Professional Regulation to send certain notices to the email address of record. Provides that members of the Collection Agency Licensing and Disciplinary Board shall have no liability in any action based upon any disciplinary proceeding or other activity performed in good faith as a member of the Board (rather than members of the Board shall be immune from suit in any action based upon disciplinary proceedings or other acts performed in good faith as members of the Board). Removes a requirement that the Department maintain a roster of all active licensees under the Act and all person whose licenses have been suspended, revoked, or denied renewal under the Act. Requires that exhibits in court proceedings under the Act shall be certified without cost. Makes other changes. Effective immediately.

LRB100 08667 SMS 18802 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning regulation.

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

4 Section 5. The Collection Agency Act is amended by changing
5 Sections 2, 5, 7, 8a, 8c, 9.22, 13.1, 13.2, 16, 17, 27, and 30
6 and by adding Sections 2.5 and 4.6 as follows:

7 (225 ILCS 425/2) (from Ch. 111, par. 2002)

8 (Section scheduled to be repealed on January 1, 2026)

9 Sec. 2. Definitions. In this Act:

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

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

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

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

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

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

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

12 "Creditor" means a person who extends consumer credit to a
13 debtor.

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

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

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

26 "Debtor" means a person from whom a collection agency seeks

1 to collect a consumer or commercial debt that is due and owing
2 or alleged to be due and owing from such person.

3 "Department" means the Department of Financial and
4 Professional Regulation.

5 "Email address of record" means the designated email
6 address recorded by the Department in the applicant's
7 application file or the licensee's license file, as maintained
8 by the Department's licensure maintenance unit.

9 "Person" means a natural person, partnership, corporation,
10 limited liability company, trust, estate, cooperative,
11 association, or other similar entity.

12 "Licensed collection agency" means a person who is licensed
13 under this Act to engage in the practice of debt collection in
14 Illinois.

15 "Multi-state licensing system" means a third-party
16 administrator of licensure that processes applications and
17 renewals and maintains multi-state records.

18 "Secretary" means the Secretary of Financial and
19 Professional Regulation.

20 (Source: P.A. 99-227, eff. 8-3-15; 99-500, eff. 1-29-16.)

21 (225 ILCS 425/2.5 new)

22 Sec. 2.5. Address of record; email address of record. All
23 applicants and licensees shall:

24 (1) provide a valid address and email address to the
25 Department, which shall serve as the address of record and

1 email address or record, respectively, at the time of
2 application for licensure or renewal of a license; and
3 (2) inform the Department of any change of address of
4 record or email address of record within 14 days after such
5 change either through the Department's website or through a
6 multi-state licensing system as designated by the
7 Secretary.

8 (225 ILCS 425/4.6 new)

9 Sec. 4.6. Multi-state licensing system. The Secretary may
10 require participation in a third-party, multi-state licensing
11 system for licensing under this Act. The multi-state licensing
12 system may share regulatory information and maintain records in
13 compliance with the provisions of this Act. The multi-state
14 licensing system may charge the applicant an administration
15 fee.

16 (225 ILCS 425/5) (from Ch. 111, par. 2008)

17 (Section scheduled to be repealed on January 1, 2026)

18 Sec. 5. Application for original license. Application for
19 an original license shall be made to the Secretary on forms
20 provided by the Department or through a multi-state licensing
21 system as designated by the Secretary, shall be accompanied by
22 the required fee and shall state:

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

24 (2) the names and addresses of the officers of the

1 collection agency and, if the collection agency is a
2 corporation, the names and addresses of all persons owning
3 10% or more of the stock of such corporation, if the
4 collection agency is a partnership, the names and addresses
5 of all partners of the partnership holding a 10% or more
6 interest in the partnership, if the collection agency is a
7 limited liability company, the names and addresses of all
8 members holding 10% or more interest in the limited
9 liability company, and if the collection agency is any
10 other legal business entity, the names and addresses of all
11 persons owning 10% or more interest in the entity; and

12 (3) such other information as the Department may deem
13 necessary.

14 (Source: P.A. 99-227, eff. 8-3-15.)

15 (225 ILCS 425/7) (from Ch. 111, par. 2010)

16 (Section scheduled to be repealed on January 1, 2026)

17 Sec. 7. Qualifications for license. In order to be
18 qualified to obtain a license or a renewal license under this
19 Act, a collection agency's officers shall:

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

22 (b) (blank); and

23 (c) have an acceptable credit rating, have no
24 unsatisfied judgments; and not have been officers and
25 owners of 10% or more interest of a former licensee ~~or~~

1 ~~registrant~~ under this Act whose license was ~~licenses or~~
2 ~~certificates were~~ suspended or revoked without subsequent
3 restoration ~~reinstatement~~.

4 (Source: P.A. 99-227, eff. 8-3-15.)

5 (225 ILCS 425/8a) (from Ch. 111, par. 2011a)

6 (Section scheduled to be repealed on January 1, 2026)

7 Sec. 8a. Fees.

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

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

17 (c) The administration fee charged by the multi-state
18 licensing system shall be paid directly to the multi-state
19 licensing system.

20 (Source: P.A. 99-227, eff. 8-3-15.)

21 (225 ILCS 425/8c) (from Ch. 111, par. 2011c)

22 (Section scheduled to be repealed on January 1, 2026)

23 Sec. 8c. (a) Each licensed collection agency shall at all
24 times maintain a separate bank account in which all monies

1 received on debts shall be deposited, referred to as a "Trust
2 Account", except that negotiable instruments received may be
3 forwarded directly to a creditor if such procedure is provided
4 for by a writing executed by the creditor. Monies received
5 shall be so deposited within 5 business days after posting to
6 the agency's books of account.

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

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

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

25 (d) Each collection agency shall keep on file the name of
26 the bank, savings and loan association, or other recognized

1 depository in which each trust account is maintained, the name
2 of each trust account, and the names of the persons authorized
3 to withdraw funds from each account.

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

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

9 ~~A trust account financial report shall be submitted~~
10 ~~annually on forms provided by the Department.~~

11 (Source: P.A. 99-227, eff. 8-3-15.)

12 (225 ILCS 425/9.22) (from Ch. 111, par. 2034)

13 (Section scheduled to be repealed on January 1, 2026)

14 Sec. 9.22. Administrative Procedure Act. The Illinois
15 Administrative Procedure Act is hereby expressly adopted and
16 incorporated herein as if all of the provisions of that Act
17 were included in this Act, except that the provision of
18 subsection (d) of Section 10-65 of the Illinois Administrative
19 Procedure Act that provides that at hearings the licensee has
20 the right to show compliance with all lawful requirements for
21 retention, continuation or renewal of the license is
22 specifically excluded. For the purposes of this Act the notice
23 required under Section 10-25 of the Administrative Procedure
24 Act is deemed sufficient when mailed or emailed to the
25 applicant or licensee at the address of record or email address

1 of record ~~of a party~~.

2 (Source: P.A. 99-227, eff. 8-3-15.)

3 (225 ILCS 425/13.1) (from Ch. 111, par. 2038.1)

4 (Section scheduled to be repealed on January 1, 2026)

5 Sec. 13.1. Collection Agency Licensing and Disciplinary
6 Board; members; qualifications; duties.

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

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

19 (c) The Board shall annually elect a chairperson from among
20 its members. The members of the Board shall receive no
21 compensation for their services, but shall be reimbursed for
22 their necessary expenses as authorized by the Department while
23 engaged in their duties.

24 (d) Members shall serve for a term of 4 years and until
25 their successors are appointed and qualified. No Board member

1 shall be appointed to more than 2 full consecutive terms. A
2 partial term of more than 2 years shall be considered a full
3 term. Appointments to fill vacancies for the unexpired portion
4 of a vacated term shall be made in the same manner as original
5 appointments. All members shall serve until their successors
6 are appointed and qualified.

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

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

13 (g) Members of the Board shall have no liability in any
14 action based upon any disciplinary proceeding or other activity
15 performed in good faith as a member of the Board. ~~Members of~~
16 ~~the Board shall be immune from suit in any action based upon~~
17 ~~disciplinary proceedings or other acts performed in good faith~~
18 ~~as members of the Board.~~

19 (Source: P.A. 99-227, eff. 8-3-15.)

20 (225 ILCS 425/13.2) (from Ch. 111, par. 2038.2)

21 (Section scheduled to be repealed on January 1, 2026)

22 Sec. 13.2. Powers and duties of Department. The Department
23 shall exercise the powers and duties prescribed by the Civil
24 Administrative Code of Illinois for the administration of
25 licensing Acts and shall exercise such other powers and duties

1 necessary for effectuating the purposes of this Act.

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

3 (1) Conduct hearings on proceedings to refuse to issue
4 or renew or to revoke licenses or suspend, place on
5 probation, or reprimand persons licensed under this Act.

6 (2) Formulate rules required for the administration of
7 this Act.

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

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

24 (Source: P.A. 99-227, eff. 8-3-15.)

25 (225 ILCS 425/16)

1 (Section scheduled to be repealed on January 1, 2026)

2 Sec. 16. Investigation; notice and hearing. The Department
3 may investigate the actions or qualifications of any applicant
4 or of any person rendering or offering to render collection
5 agency services or any person holding or claiming to hold a
6 license as a collection agency. The Department shall, before
7 refusing to issue or renew, revoking, suspending, placing on
8 probation, reprimanding, or taking any other disciplinary
9 action under Section 9 of this Act, at least 30 days before the
10 date set for the hearing, (i) notify the accused in writing of
11 the charges made and the time and place for the hearing on the
12 charges, (ii) direct him or her to file his or her written
13 answer to the charges with the Department under oath within 20
14 days after the service on him or her of the notice, and (iii)
15 inform the accused that if he or she fails to file an answer
16 default will be taken against him or her or his or her license
17 may be suspended, revoked, or placed on probation, or other
18 disciplinary action may be taken with regard to the license,
19 including limiting the scope, nature, or extent of his or her
20 practice, as the Department may consider proper. At the time
21 and place fixed in the notice, the Department shall proceed to
22 hear the charges. The parties or their counsel shall be
23 accorded ample opportunity to present any pertinent
24 statements, testimony, evidence, and arguments. The Department
25 may continue the hearing from time to time. Nothing in this
26 Section shall be construed to require that a hearing be

1 commenced and completed in one day. At the discretion of the
2 Secretary, after having first received the recommendation of
3 the Board, the accused person's license may be suspended or
4 revoked, if the evidence constitutes sufficient grounds for
5 such action under this Act. If the person fails to file an
6 answer after receiving notice, his or her license may, in the
7 discretion of the Department, be suspended, revoked, or placed
8 on probation, or the Department may take whatever disciplinary
9 action it considers proper, including limiting the scope,
10 nature, or extent of the person's practice or the imposition of
11 a fine, without a hearing, if the act or acts charged
12 constitute sufficient grounds for such action under this Act.
13 Written or electronic ~~This written~~ notice may be served by
14 personal delivery, or certified mail, or email to the applicant
15 or licensee ~~respondent~~ at the address of record or email
16 address of record.

17 (Source: P.A. 99-227, eff. 8-3-15.)

18 (225 ILCS 425/17)

19 (Section scheduled to be repealed on January 1, 2026)

20 Sec. 17. Record of hearing; transcript. The Department, at
21 its expense, shall preserve a record of all proceedings at the
22 formal hearing of any case. The notice of hearing, complaint,
23 all other documents in the nature of pleadings, written motions
24 filed in the proceedings, the transcript of testimony, the
25 report of the Board, and orders of the Department shall be in

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

7 (Source: P.A. 99-227, eff. 8-3-15.)

8 (225 ILCS 425/27)

9 (Section scheduled to be repealed on January 1, 2026)

10 Sec. 27. Certifications of record; costs. The Department
11 shall not be required to certify any record to the court or
12 file any answer in court or otherwise appear in any court in a
13 judicial review proceeding, unless and until the Department has
14 received from the plaintiff payment of the costs of furnishing
15 and certifying the record, which costs shall be determined by
16 the Department. Exhibits shall be certified without cost.
17 Failure on the part of the plaintiff to file a receipt in court
18 shall be grounds for dismissal of the action.

19 (Source: P.A. 99-227, eff. 8-3-15.)

20 (225 ILCS 425/30)

21 (Section scheduled to be repealed on January 1, 2026)

22 Sec. 30. Expiration, renewal, and restoration of license.
23 The expiration date and renewal period for each license shall
24 be set by rule. A collection agency whose license has expired

1 may restore ~~reinstate~~ its license at any time within 5 years
2 after the expiration thereof, by making a renewal application
3 and by paying the required fee.

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

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

23 (Source: P.A. 99-227, eff. 8-3-15.)

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

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9	225 ILCS 425/8c	from Ch. 111, par. 2011c
10	225 ILCS 425/9.22	from Ch. 111, par. 2034
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