



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

HB4402

Introduced 01/05/06, by Rep. Frank J. Mautino

SYNOPSIS AS INTRODUCED:

New Act

Creates the Collateral Recovery Act. Provides for the licensure of repossession agencies, the certification of recovery managers, and the registration of repossession agency employees. Establishes the Illinois Repossession and Recovery Board. Grants rulemaking authority to the Department of Financial and Professional Regulation. Sets forth provisions concerning qualifications, application, examination, assignment, insurance requirements, and administrative proceedings. Prohibits recovery work on a contingency basis.

LRB094 15559 RAS 50758 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

FISCAL NOTE ACT
MAY APPLY

1 AN ACT concerning regulation.

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

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

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

11 Section 10. Definitions. In this Act:

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

24 "Board" means the Illinois Repossession and Recovery
25 Board.

26 "Certified recovery manager" means a person who possesses a
27 valid certificate in accordance with the provisions of this Act
28 and is in active control or management of a repossession
29 agency.

30 "Collateral" means any vehicle, boat, recreational
31 vehicle, motor home, motorcycle, appliance, or other property

1 that is subject to a security agreement.

2 "Contingency" means contingent upon recovering collateral

3 "Debtor" means any person obligated under a security
4 agreement.

5 "Department" means the Department of Financial and
6 Professional Regulation.

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

12 "Licensee" means an individual, partnership, limited
13 liability company, or corporation licensed under this Act.

14 "Personal effects" means any property contained within
15 repossessed collateral that is not the property of the legal
16 owner.

17 "Repossession agency" means any person or entity that, for
18 any type of consideration, engages in the business of, accepts
19 employment to furnish, or agrees to provide or provides skip
20 tracing services, property locating services, property
21 recovery, recovered property transportation, recovered
22 property storage, or all services relevant to any of the
23 following:

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

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

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

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

34 (5) The possession of collateral.

35 (6) The prevention of the misappropriation or
36 concealment of chattel, vehicles, goods, objects,

1 documents, or papers.

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

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

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

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

11 (4) A qualified certificate holder or a registrant when
12 performing services for, or on behalf of, a licensee.

13 "Repossession agency employee" means a person who is hired
14 by a licensed repossession agency to recover property and who
15 holds a permanent employee registration card in accordance with
16 the provisions of this Act.

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

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

27 Section 15. Illinois Repossession and Recovery Board.

28 (a) There is established within the Department, the
29 Illinois Repossession and Recovery Board. The Board shall be
30 composed of 7 members appointed by the Secretary who shall
31 serve in an advisory capacity to the Secretary. The Board shall
32 elect a chairperson and a vice chairperson.

33 (b) In appointing members of the Board, the Secretary shall
34 give due consideration to recommendations by members of the
35 collateral recovery profession and by statewide organizations

1 solely representing the interests of repossession agencies and
2 collateral recovery managers.

3 (c) Board members shall be appointed for terms of 4 years,
4 except that any person appointed to fill a vacancy shall serve
5 only for the unexpired term and until a successor is appointed
6 and qualified. No member shall be reappointed to the Board for
7 a term that would result in the member serving for more than 8
8 consecutive years.

9 (d) The membership of the Board shall reasonably reflect
10 representation from various geographic areas of the State.

11 (e) A majority of the Board members currently appointed
12 shall constitute a quorum. A vacancy in the membership of the
13 Board shall not impair the right of a quorum to exercise all
14 the rights and perform all the duties of the Board.

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

18 (g) The Secretary may remove any member of the Board for
19 any cause that, in the opinion of the Secretary, reasonably
20 justifies termination.

21 (h) The Secretary may consider the recommendations of the
22 Board on questions of standards of professional conduct,
23 discipline, and qualification of candidates or licensees under
24 this Act.

25 (i) The Department shall, in conformity with the Personnel
26 Code, employ all staff, clerical and otherwise, as are
27 necessary to carry out the duties of the Board.

28 (j) Board members shall not be compensated, but shall be
29 reimbursed for all legitimate, necessary, and authorized
30 expenses from funds appropriated for that purpose.

31 Section 20. Rulemaking; enforcement. The Department may
32 adopt any rules and procedures necessary to administer the
33 provisions of this Act and shall work in conjunction with the
34 Secretary of State Police in adopting any rules and procedures
35 necessary to enforce the provisions of this Act.

1 Section 25. Licensure, certification, or registration
2 required.

3 (a) Six months after the effective date of this Act, it
4 shall be unlawful for any person or entity to practice, attempt
5 to practice, or to hold himself, herself, or itself out to be a
6 repossession agency unless licensed under this Act.

7 (b) It shall be unlawful for any person to practice,
8 attempt to practice, or to hold himself or herself out to be a
9 certified recovery manager unless certified under this Act.

10 (c) It shall be unlawful for any person to practice,
11 attempt to practice, or hold himself or herself out to be a
12 repossession agency employee unless he or she holds a valid
13 permanent employee registration card issued by the Department
14 under the the provisions of this Act.

15 Section 30. Application for repossession agency licensure.

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

21 (b) Every application shall state, in addition to any other
22 requirements, (i) the name of the applicant, (ii) the name
23 under which the applicant will do business, (iii) the proposed
24 location of the agency by number and street and city, and (iv)
25 the usual business hours that the agency will maintain. The
26 residential address and telephone number and the driver's
27 license number of each applicant, if requested, shall be
28 confidential and may not be released to the public.

29 (c) No license may be issued in (i) any fictitious name
30 that may be confused with or is similar to any federal, State,
31 county, or municipal government function or agency, (ii) any
32 name that may tend to describe any business function or
33 enterprise not actually engaged in by the applicant, (iii) any
34 name that is the same as or similar to any existing licensee as

1 would tend to deceive the public, or (iv) any name that would
2 tend to be deceptive or misleading.

3 (d) If the applicant for repossession agency licensure is
4 an individual, his or her application shall include (i) the
5 full residential address of the applicant and (ii) either the
6 sworn statement of the applicant declaring that he or she is
7 the certified recovery manager who shall be personally and
8 actively in charge of the agency for which the license is
9 sought or the name and sworn statement of the certified
10 recovery manager who shall be actively in charge of the agency.

11 (e) If the applicant for repossession agency licensure is a
12 partnership, the application shall include (i) a statement of
13 the names and full residential addresses of all partners in the
14 business and (ii) the sworn statement signed by each partner
15 verifying the name of the partner who is a certified recovery
16 manager and shall be actively in charge of the business or the
17 name of the certified recovery manager who is not a partner,
18 but shall be actively in charge of the agency. If a certified
19 recovery manager who is not a partner shall be actively in
20 charge of the agency, he or she must also sign the sworn
21 statement. The application shall also state whether any of the
22 partners has ever used an alias.

23 (f) If the applicant for repossession agency licensure is a
24 corporation, the application shall include (i) the names and
25 full residential addresses of all corporation officers and (ii)
26 a sworn statement signed by a duly authorized officer of the
27 corporation verifying the name of the officer who is a
28 certified recovery manager and shall be actively in charge of
29 the agency or the name of the certified recovery manager who is
30 not an officer, but shall be actively in charge of the agency.
31 If a certified recovery manager who is not an officer shall be
32 actively in charge of the agency, he or she must also sign the
33 sworn statement. The application shall also state whether any
34 of the officers has ever used an alias.

35 (g) If the applicant for repossession agency licensure is a
36 limited liability company, the application shall include (i)

1 the names and full residential addresses of all company members
2 and (ii) a sworn statement signed by each member verifying the
3 name of the member who is a certified recovery manager and
4 shall be actively in charge of the agency or the name of the
5 certified recovery manager who is not a member, but shall be
6 actively in charge of the agency. If a certified recovery
7 manager who is not a member shall be actively in charge of the
8 agency, he or she must also sign the sworn statement. The
9 application shall also state whether any of the members has
10 ever used an alias.

11 (h) Each individual, partner of a partnership, officer of a
12 corporation, or member of a limited liability company shall
13 submit with the application, one form of personal
14 identification upon which shall appear a photograph taken
15 within one year immediately proceeding the date of the filing
16 of the application.

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

19 (j) The Department may require any additional information
20 that, in the judgment of the Department, shall enable the
21 Department to pass on the qualifications of the applicant for
22 licensure.

23 (k) Applicants have one year from the date of application
24 to complete the application process. If the application has not
25 been completed within one year, the application shall be
26 denied, the fee shall be forfeited, and the applicant must
27 reapply and meet the requirements in effect at the time of
28 reapplication.

29 (l) Nothing in this Section shall permit a domestic or
30 foreign liability company to be licensed as a repossession
31 agency.

32 Section 35. Qualifications for recovery manager;
33 identification card.

34 (a) An applicant is qualified for certification as a
35 recovery manager if that person meets all of the following

1 requirements:

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

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

6 (3) Is of good moral character, which is a continuing
7 requirement of licensure. Conviction of a crime not
8 included under item (2) of this Section may be used in
9 determining moral character, but may not operate as an
10 absolute bar from licensure.

11 (4) Has not been declared by any court of competent
12 jurisdiction to be incompetent by reason of mental or
13 physical defect or disease, unless a declaration of
14 competency has since occurred.

15 (5) Is not suffering from habitual drunkenness or
16 narcotic addiction or dependence.

17 (6) Has completed no less than 5,000 hours of actual
18 compensated collateral recovery work as an employee of a
19 repossession agency located in the State, a financial
20 institution, or a vehicle dealer in the 2 years immediately
21 preceding the filing of an application, acceptable proof of
22 which must be submitted to the Department.

23 (7) Has submitted to the Department 2 recent
24 photographs of himself or herself and 2 sets of
25 fingerprints, which shall be checked against the
26 fingerprint records on file with the Department of State
27 Police and the Federal Bureau of Investigation in the
28 manner set forth in Section 50 of this Act.

29 (8) Has successfully passed the required examination
30 authorized by the Department.

31 (9) Has successfully completed the Certified Asset
32 Recovery Specialist (C.A.R.S.) and the Recovery Education
33 and Certification Training (R.E.A.C.T.) national
34 certification programs.

35 (10) Has not been dishonorably discharged from the
36 Armed Services of the United States.

1 (11) Has paid the required application and examination
2 fees.

3 (b) Upon the issuance of a recovery manager certificate,
4 the Department shall issue the certificate holder a suitable
5 pocket identification card that shall include a photograph of
6 the certificate holder. The identification card must contain
7 the name of the certificate holder and that of the repossession
8 agency that employs the certificate holder, in addition to any
9 other information required by the Department.

10 Section 40. Repossession agency employee requirements.

11 (a) All employees of a licensed repossession agency whose
12 duties include the actual repossession of collateral shall
13 apply for a permanent employee registration card. The holder of
14 a repossession agency license issued under this Act, known in
15 this Section as "employer", may employ in the conduct of the
16 licensee's business employees under the following provisions:

17 (1) No person may be issued a permanent employee
18 registration card who meets any of the following criteria:

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

20 (B) Has been determined by the Department to be
21 unfit by reason of conviction of an offense in this or
22 another state, other than a minor traffic offense. The
23 Department shall adopt rules for making those
24 determinations that shall afford the applicant due
25 process of law.

26 (C) Has had a license or permanent employee
27 registration card denied, suspended, or revoked under
28 this Act.

29 (D) Has been declared incompetent by any court of
30 competent jurisdiction by reason of mental disease or
31 defect and has not been restored.

32 (E) Has not successfully completed the Certified
33 Asset Recovery Specialist (C.A.R.S.) and the Recovery
34 Education and Certification Training (R.E.A.C.T.)
35 national certification programs.

1 (F) Has been dishonorably discharged from the
2 armed services of the United States.

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

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

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

15 (C) That the person has not had a license or
16 employee registration denied, revoked, or suspended
17 under this Act.

18 (D) Any conviction of a felony or misdemeanor.

19 (E) Any declaration of incompetence by a court of
20 competent jurisdiction that has not been restored.

21 (F) Any dishonorable discharge from the armed
22 services of the United States.

23 (G) Any other information as may be required by any
24 rule of the Department to show the good character,
25 competency, and integrity of the person executing the
26 statement.

27 (b) Each applicant for a permanent employee registration
28 card shall have his or her fingerprints submitted to the
29 Department of State Police in an electronic format that
30 complies with the form and manner for requesting and furnishing
31 criminal history record information as prescribed by the
32 Department of State Police. These fingerprints shall be checked
33 against the Department of State Police and Federal Bureau of
34 Investigation criminal history record databases now and
35 hereafter filed. The Department of State Police shall charge
36 applicants a fee for conducting the criminal history records

1 check, which shall be deposited in the State Police Services
2 Fund and shall not exceed the actual cost of the records check.
3 The Department of State Police shall furnish, pursuant to
4 positive identification, records of Illinois convictions to
5 the Department. The Department may require applicants to pay a
6 separate fingerprinting fee, either to the Department or
7 directly to a designated vendor. The Department, in its
8 discretion, may allow an applicant who does not have reasonable
9 access to a designated vendor to provide his or her
10 fingerprints in an alternative manner. The Department, in its
11 discretion, may also use other procedures in performing or
12 obtaining criminal history records checks of applicants.
13 Instead of submitting his or her fingerprints, an individual
14 may submit proof that is satisfactory to the Department that an
15 equivalent security clearance has been conducted.

16 (c) Each applicant for a permanent employee registration
17 card must submit to the Department 2 recent photographs of
18 himself or herself.

19 (d) The Department shall issue a permanent employee
20 registration card, in a form the Department prescribes, to all
21 qualified applicants. The Department shall notify the
22 submitting licensee within 10 days after receipt of the
23 application of its intent to issue or deny the permanent
24 employee registration card. The holder of a permanent employee
25 registration card shall carry the card at all times while
26 actually engaged in the performance of the duties of his or her
27 employment. Expiration and requirements for renewal of
28 permanent employee registration cards shall be established by
29 rule of the Department. Possession of a permanent employee
30 registration card does not in any way imply that the holder of
31 the card is employed by an agency unless the permanent employee
32 registration card is accompanied by the employee
33 identification card required by subsection (f) of this Section.

34 (e) Each employer shall maintain a record of each employee
35 that is accessible to the duly authorized representatives of
36 the Department. The record shall contain all of the following

1 information:

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

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

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

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

15 (f) Every employer shall furnish an employee
16 identification card to each of his or her employees. This
17 employee identification card shall contain a recent photograph
18 of the employee, the employee's name, the name and agency
19 license number of the employer, the employee's personal
20 description, the signature of the employer, the signature of
21 that employee, the date of issuance, and an employee
22 identification card number.

23 (g) No employer may issue an employee identification card
24 to any person who is not employed by the employer in accordance
25 with this Section or falsely state or represent that a person
26 is or has been in his or her employ. It is unlawful for an
27 applicant for registered employment to file with the Department
28 the fingerprints of a person other than himself or herself or
29 to fail to exercise due diligence in resubmitting replacement
30 fingerprints for those employees who have had original
31 fingerprint submissions returned as unclassifiable.

32 (h) Every employer shall obtain the identification card of
33 every employee who terminates employment with the employer.

34 (i) No agency may employ any person to perform a licensed
35 activity under this Act unless the person possesses a valid
36 permanent employee registration card or the person has a valid

1 license under this Act.

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

5 (1) The agency completes in its entirety and submits to
6 the Department an application for a permanent employee
7 registration card, including the required fingerprint
8 receipt and fees.

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

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

20 (4) The agency maintains a separate roster of the names
21 of all employees whose applications are currently pending
22 with the Department and submits the roster to the
23 Department on a monthly basis. Rosters are to be maintained
24 by the agency for a period of at least 24 months.

25 An agency may employ only a permanent employee applicant
26 for which it either submitted a permanent employee application
27 and all required forms and fees or it confirms with the
28 Department that a permanent employee application and all
29 required forms and fees have been submitted by another agency
30 and all other requirements of this Section are met.

31 The Department shall have the authority to revoke, without
32 a hearing, the temporary authority of an individual to work
33 upon receipt of Federal Bureau of Investigation fingerprint
34 data or a report of another official authority indicating a
35 criminal conviction. If the Department has not received a
36 temporary employee's Federal Bureau of Investigation

1 fingerprint data within 120 days after the date the Department
2 received the Department of State Police fingerprint data, the
3 Department may, at its discretion, revoke the employee's
4 temporary authority to work with 15 days written notice to the
5 individual and the employing agency.

6 An agency may not employ a person in a temporary capacity
7 if it knows or reasonably should have known that the person has
8 been convicted of a crime under the laws of this State, has
9 been convicted in another state of any crime that is a crime
10 under the laws of this State, has been convicted of any crime
11 in a federal court, or has been posted as an unapproved
12 applicant by the Department. Notice by the Department to the
13 agency, via certified mail, personal delivery, electronic
14 mail, or posting on an internet site accessible to the agency
15 that the person has been convicted of a crime shall be deemed
16 constructive knowledge of the conviction on the part of the
17 agency. The Department may adopt rules to implement this
18 subsection (j).

19 (k) No person may be employed under this Section in any
20 capacity if the person while so employed is being paid by the
21 United States or any political subdivision for the time so
22 employed in addition to any payments he or she may receive from
23 the employer.

24 (l) If information is discovered affecting the
25 registration of a person whose fingerprints were submitted
26 under this Section, the Department shall so notify the agency
27 that submitted the fingerprints on behalf of that person.

28 (m) A person employed under this Section shall have 15
29 business days within which to notify the Department of any
30 change in employers. Upon notification and payment of the
31 required fee, the Department shall issue that person a new
32 permanent employee registration card, provided that the
33 person's current employer is a licensed repossession agency.

34 (n) This Section applies only to those employees of
35 licensed repossession agencies whose duties include actual
36 repossession of collateral.

1 Section 45. SSN or FEIN on application. In addition to any
2 other information required by the Department to be contained in
3 the application, every application for an original, renewal, or
4 restored license shall include the applicant's Social Security
5 Number (SSN) if an individual or Federal Employer
6 Identification Number (FEIN) if not an individual. The
7 Department shall not disclose an individual's SSN and must keep
8 that SSN confidential unless disclosure is required by law.

9 Section 50. Criminal background check. The Secretary shall
10 require that each individual, partner of a partnership, officer
11 of a corporation, or member of a limited liability company, as
12 part of the application process, authorize a criminal history
13 records check to determine if such applicant has ever been
14 charged with a crime and if so, the disposition of those
15 charges. Upon this authorization, each individual, partner of a
16 partnership, officer of a corporation, or member of a limited
17 liability company shall submit his or her fingerprints to the
18 Department of State Police in the form and manner prescribed by
19 the Department of State Police. These fingerprints shall be
20 checked against the fingerprint records now and hereafter filed
21 in the Department of State Police and Federal Bureau of
22 Investigation criminal history records databases. The
23 Department of State Police shall charge a fee for conducting
24 the criminal history records check, which shall be deposited in
25 the State Police Services Fund and shall not exceed the actual
26 cost of the records check. The Department of State Police shall
27 provide information concerning any criminal charges, and their
28 disposition, now or hereafter filed, against an applicant upon
29 request of the Secretary when the request is made in the form
30 and manner required by the Department of State Police.

31 Section 55. Examinations.

32 (a) The Department may authorize examinations of
33 applicants as recovery managers and repossession agency

1 employees at least once every other month at such places and on
2 such specific dates as it may determine. The examination of
3 applicants shall be of a character to give a fair test of the
4 qualifications of the applicants to engage in the practice of
5 collateral recovery.

6 (b) In order to be eligible for initial examination, an
7 applicant must have completed and filed his or her application,
8 together with the application fee prescribed by the Department,
9 not later than 30 days prior to the next scheduled examination
10 date. Applicants whose applications are not completed and filed
11 within the 30-day time period may, at the discretion of the
12 Department, be scheduled for the first examination following
13 the scheduled examination.

14 (c) Upon an applicant's failure to pass the initial
15 examination, he or she shall not be eligible for any subsequent
16 examination, except, upon payment of the reexamination fee
17 prescribed by the Department for each subsequent examination
18 accompanied by a completed application for reexamination filed
19 within the time limits and under the conditions relating to
20 applications for initial examination as set forth in this
21 Section.

22 (d) The Department may employ consultants for the purpose
23 of preparing and conducting examinations.

24 Section 60. Certified recovery manager in charge of
25 repossession agency.

26 (a) As a condition of licensure, a certified recovery
27 manager must, at all times, be actively in charge of a
28 repossession agency.

29 (b) A certified recovery manager may only be actively in
30 charge of one repossession agency at one time. Upon written
31 request by a representative of an agency within 10 days after
32 the loss of the certified recovery manager actively in charge
33 due to the death of the certificate holder or because of an
34 unanticipated termination of his or her employment, the
35 Department shall issue a temporary permit allowing the

1 continuing operation of a previously licensed agency. The
2 temporary permit shall be valid for no more than 90 days. Upon
3 written request by the representative of the agency, an
4 extension of an additional 90 days may be granted by the
5 Department for good cause shown. No more than 2 extensions may
6 be granted to any repossession agency. A temporary permit may
7 not be issued for loss of the certified recovery manager
8 actively in charge if that loss is due to disciplinary action
9 taken by the Department.

10 (c) Whenever a certified recovery manager actively in
11 charge of a repossession agency ceases to be in charge, the
12 licensed agency shall file within notice with the Department
13 within 30 days after the cessation. If the licensee fails to
14 give written notice at the end of the 30-day period, the
15 agency's license shall automatically be suspended. If the
16 notice is filed, the license shall remain in force for a period
17 of 90 days after the filing of the notice. At the end of the
18 90-day period or an additional period, not to exceed one year,
19 as specified by the Department, if written notice is not given
20 that a certified recovery manager is then actively in charge of
21 the agency, the agency's license shall automatically be
22 suspended. A license suspended under this Section may be
23 reinstated upon payment of the reinstatement fee and submission
24 of a reinstatement application.

25 (d) Except as otherwise provided in this Act, no person may
26 serve as the certified recovery manager actively in charge of a
27 licensed repossession agency if that person has ever had a
28 repossession agency license revoked or suspended or if the
29 person was a partner, managing employee, member, or officer of
30 a repossession agency the license of which has been revoked for
31 cause.

32 (e) The certified recovery manager actively in charge must
33 spend over 51% of the usual business hours conducting business
34 related to collateral recovery at the licensed location.

35 (f) The certificate of the recovery manager actively in
36 charge of a licensed repossession agency, together with the

1 agency's license, shall be conspicuously displayed at the
2 agency location of which the recovery manager is actively in
3 charge.

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

6 Section 65. License extension in cases of death or
7 disassociation.

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

16 (b) In the case of the death or disassociation of a partner
17 of a partnership licensed as a repossession agency, the
18 licensee shall notify the Department, in writing, within 30
19 days from the death or disassociation of the partner. If the
20 licensee fails to notify the Department within the 30-day
21 period, the license shall automatically be revoked at the end
22 of that period. If proper notice is given, the license shall
23 remain in force for 90 days following the date of death or
24 disassociation of the partner. At the end of the 90-day period,
25 the licensee shall automatically be revoked.

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

28 Section 70. Licenses, certificates, and registration
29 cards; renewals; restoration; person in military service.

30 (a) An original repossession agency license, recovery
31 manager certificate, and permanent employee registration card
32 shall expire one year after the date of issuance.

33 (b) A renewal repossession agency license or recovery
34 manager certificate shall expire 2 years after the date of

1 renewal.

2 (c) A renewal permanent employee registration card shall
3 expire one year after the date of renewal.

4 (d) At least 90 days prior to the expiration of a license,
5 certificate, or registration card, the Department shall mail to
6 the licensee, certificate holder, or registration card holder a
7 renewal form in the form and manner prescribed by the
8 Department. The licensee, certificate holder, or registration
9 card holder must complete and mail the renewal form to the
10 Department, pay any fines assessed, and pay any renewal fee
11 required by the Department.

12 (e) Any person or entity that has permitted a license,
13 certificate, or registration card to expire may have that
14 license, certificate, or registration card restored by making
15 application to the Department within one year after the
16 expiration of a repossession agency license or a qualified
17 manager certificate or within 30 days after the expiration of a
18 permanent employee registration card, filing proof acceptable
19 to the Department of fitness to have the license, certificate,
20 or registration card restored, and paying the required
21 restoration fee. However, any person whose license,
22 certificate, or registration card expired while (i) in federal
23 service on active duty with the Armed Forces of the United
24 States or called into service or training with the State
25 militia or (ii) in training or education under the supervision
26 of the United States preliminary to induction into military
27 service may have his or her license, certificate, or
28 registration card renewed or restored without paying any lapsed
29 renewal fees if, within 2 years after honorable termination of
30 the service, training, or education, except under condition
31 other than honorable, he or she furnishes the Department with
32 satisfactory evidence to the effect that he or she has been so
33 engaged and that the service, training, or education has been
34 so terminated.

35 (f) A suspended repossession agency license, recovery
36 manager certificate, or permanent employee registration card

1 is subject to expiration as set forth in this Section; however,
2 renewal of the license, certificate, or registration card does
3 not entitle the licensee, certificate holder, or registration
4 card holder, while the license, certificate, or registration
5 card remains suspended and until it is reinstated, to engage in
6 the licensed, certified, or registered activity.

7 (g) A revoked repossession agency license, recovery
8 manager certificate, or permanent employee registration card
9 is subject to expiration as set forth in this Section; however,
10 it may not be renewed. If a revoked license, certificate, or
11 registration card is reinstated after its expiration, the
12 licensee, certificate holder, or registration card holder, as a
13 condition of reinstatement, shall pay a reinstatement fee in an
14 amount equal to the renewal fee in effect on the last regular
15 renewal date prior to the date on which the license,
16 certificate, or registration card is reinstated and any
17 additional delinquency fee required by the Department.

18 (h) Any person or entity that notifies the Department, in
19 writing on forms prescribed by the Department, may place a
20 license, certificate, or registration card on inactive status
21 and shall be excused from the payment of renewal fees until the
22 person or entity notifies the Department in writing of the
23 intention to resume active practice. Any person or entity
24 requesting that a license, certificate, or registration card be
25 changed from inactive to active status shall be required to pay
26 the current renewal fee.

27 (i) Any repossession agency licensee, recovery manager
28 certificate holder, or permanent employee registration card
29 holder whose license, certificate, or registration card is
30 nonrenewed or on inactive status shall not engage in the
31 practice of recovery in the State or use the title or advertise
32 that he, she, or it performs the services of a "licensed
33 repossession agency", "certified recovery manager", or
34 "repossession agency employee".

35 (j) Any person violating subsection (i) of this Section
36 shall be considered to be operating a repossession agency

1 without a license, acting as a recovery manager without a
2 certificate, or acting as a repossession agency employee
3 without a permanent employee registration card and is subject
4 to the disciplinary provisions of this Act.

5 (k) A repossession agency license, recovery manager
6 certificate, or permanent employee registration card that is
7 not renewed within 3 years after its expiration may not be
8 renewed, restored, reinstated, or reissued thereafter. The
9 holder of the license, certificate, or registration card may
10 obtain a new license, certificate, or registration card only
11 upon compliance with all of the provisions of this Act
12 concerning the issuance of an original license, certificate, or
13 registration card.

14 Section 75. Refusal, revocation, or suspension.

15 (a) The Department may refuse to issue or renew or may
16 revoke a license, certificate, or registration card or may
17 suspend, place on probation, fine, or take any disciplinary
18 action as the Department may deem proper, including fines not
19 to exceed \$2,500 for each violation, with regard to any
20 licensee, certificate holder, or registration card holder for
21 any one or combination of the following causes:

22 (1) Knowingly making any misrepresentation for the
23 purpose of obtaining a license, certificate, or
24 registration card.

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

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

31 (4) Aiding or assisting another person in violating any
32 provision of this Act or its rules.

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

1 Department, or violating the rules adopted by the Board.

2 (6) Habitual or excessive use or addiction to alcohol,
3 narcotics, stimulants, or any other chemical agent or drug
4 that results in the inability to engage in the practice of
5 recovery with reasonable judgment, skill, or safety.

6 (7) Violation of any court order from any State or
7 public agency engaged in the enforcement of repayment of
8 child support or arrearages or for noncompliance with
9 certain processes relating to paternity or support
10 proceedings.

11 (8) Solicitation of professional services by using
12 false or misleading advertising.

13 (9) A finding that licensure, certification, or
14 registration has been applied for or obtained by fraudulent
15 means.

16 (10) Practicing or attempting to practice under a name
17 other than the full name as shown on the license,
18 certificate, or registration card or any other legally
19 authorized name.

20 (b) The entry of an order by a circuit court establishing
21 that any person holding a license, certificate, or registration
22 card under Department rule is subject to involuntary admission
23 or judicial admission as provided for in the Mental Health and
24 Developmental Disabilities Code operates as an automatic
25 suspension of that license, certificate, or registration card.
26 That person may have his or her license, certificate, or
27 registration card restored only upon the determination by a
28 circuit court that the patient is no longer subject to
29 involuntary admission or judicial admission and the issuance of
30 an order so finding and discharging the patient or at the
31 discretion of the Department. Where the circumstances so
32 indicate, the Department may require an examination prior to
33 restoring a suspended license, certificate, or registration
34 card.

35 (c) The Department may refuse to issue or may suspend the
36 license, certificate, or registration card of any person or

1 entity who fails to file a return, pay the tax, penalty, or
2 interest shown in a filed return or pay any final assessment of
3 tax, penalty, or interest, as required by any tax Act
4 administered by the Department of Revenue, until the time the
5 requirements of the tax Act are satisfied.

6 Section 80. Consideration of past crimes.

7 (a) Notwithstanding the prohibitions set forth in Sections
8 35 and 40 of this Act, when considering the denial of a
9 license, certificate, or registration card on the grounds of
10 conviction of a crime, the Department, in evaluating the
11 rehabilitation of the applicant and the applicant's present
12 eligibility for a license, certificate, or registration card,
13 shall consider each of the following criteria:

14 (1) the nature and severity of the act or crime under
15 consideration as grounds for denial;

16 (2) evidence of any act committed subsequent to the act
17 or crime under consideration as grounds for denial, which
18 also could be considered as grounds for disciplinary action
19 under this Act;

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

23 (4) the extent to which the applicant has complied with
24 any terms of parole, probation, restitution, or any other
25 sanctions lawfully imposed against the applicant; and

26 (5) evidence, if any, of rehabilitation submitted by
27 the applicant.

28 (b) When considering the suspension or revocation of a
29 license, certificate, or registration card on the grounds of
30 conviction of a crime, the Department, in evaluating the
31 rehabilitation of the applicant and the applicant's present
32 eligibility for a license, certificate, or registration card,
33 shall consider each of the following criteria:

34 (1) the nature and severity of the act or offense;

35 (2) the licensee's, certificate holder's, or

1 registration card holder's criminal record in its
2 entirety;

3 (3) the amount of time that has lapsed since the
4 commission of the act or offense;

5 (4) whether the licensee, certificate holder, or
6 registration card holder has complied with any terms of
7 parole, probation, restitution, or any other sanctions
8 lawfully imposed against him or her;

9 (5) if applicable, evidence of expungement
10 proceedings; and

11 (6) evidence, if any, of rehabilitation submitted by
12 the licensee, certificate holder, or registration card
13 holder.

14 Section 85. Assignment of repossession agency license.

15 (a) Except as provided in subsection (b) of this Section, a
16 repossession agency license is not assignable.

17 (b) A repossession agency may apply to the Department for
18 consent and, upon receipt of such consent and payment of any
19 fee required by the Department, may assign a license to another
20 entity, provided that all owners of the assignor agency shall
21 subsequently own the assignee agency in its entirety.

22 Section 90. Insurance required. No repossession agency
23 license shall be issued unless the applicant first files with
24 the Department a certification of insurance evidencing
25 coverage in the required amount. The coverage shall provide the
26 Department as an additional insured for the purpose of
27 receiving all notices of modifications or cancellation of such
28 insurance. Coverage shall be written by an insurance company
29 that is lawfully engaged to provide insurance coverage in
30 Illinois. Coverage shall provide for a combined single limit
31 policy in the amount of at least \$1,000,000, which policy shall
32 include commercial general liability for wrongful
33 repossession, dishonesty bond, garage keepers, on hook, and
34 drive-away. Coverage shall insure for the liability of all

1 employees certified by the Department while acting in the
2 course of their employment.

3 The agency shall notify the Department of any claim against
4 the insurance policy and shall notify the Department
5 immediately upon cancellation of the insurance policy, whether
6 the cancellation was initiated by the insurance company or the
7 insured agency. The agency's license shall automatically be
8 suspended on the date of cancellation of the policy, unless
9 evidence of insurance is provided to the Department prior to
10 the effective date of the cancellation.

11 Section 95. Contingency work prohibited. No person or
12 entity licensed, certified, or registered under this Act shall
13 work on a contingency basis. Any assignment received from a
14 financial institution or financier requesting repossession
15 work within the State must be issued and accepted on a
16 non-contingent basis.

17 Section 100. Display of license required. At all times, a
18 repossession agency license shall be conspicuously displayed
19 at the agency location on record with the Department.

20 Section 105. Local filing. Nothing in this Act shall
21 prevent local authorities in any city, county, or city and
22 county, by ordinance and within the exercise of the police
23 power of the city or county, from requiring repossession agency
24 licensees and recovery manager certificate holders to register
25 their names and file a copy of their State identification cards
26 with the city, county, or city and county. No fee may be
27 charged nor may any application be required by the city or
28 county for this registration.

29 Section 110. Repossession of vehicles.

30 (a) With regard to collateral subject to registration under
31 the Illinois Vehicle Code, repossession occurs when the
32 reposessor gains entry into the collateral or when the

1 collateral becomes connected to a tow truck.

2 (b) If personal effects or other property not recovered by
3 a security agreement are contained in or on a recovered vehicle
4 at the time it is recovered, the personal effects and other
5 property must be handled in the manner set forth in Article II
6 of Chapter 4 of the Illinois Vehicle Code.

7 Section 115. Deposit of fees and fines. All of the fees and
8 fines collected under this Act shall be deposited into the
9 General Professions Dedicated Fund.

10 Section 120. Payments; penalty for insufficient funds. Any
11 person or entity who delivers a check or other payment to the
12 Department that is returned to the Department unpaid by the
13 financial institution upon which it is drawn shall pay to the
14 Department, in addition to the amount already owed to the
15 Department, a fine of \$50. The fines imposed by this Section
16 are in addition to any other discipline provided under this Act
17 prohibiting unlicensed, uncertified, or unregistered practice
18 or practice on a nonrenewed license, certificate, or
19 registration card. The Department shall notify the person or
20 entity that payment of fees and fines shall be paid to the
21 Department by certified check or money order within 30 calendar
22 days after notification. If, after the expiration of 30 days
23 from the date of the notification, the person or entity has
24 failed to submit the necessary remittance, the Department shall
25 automatically terminate the license, certificate, or
26 registration card or deny the application, without hearing. If,
27 after termination or denial, the person seeks a license,
28 certificate, or registration card, the person or entity shall
29 apply to the Department for restoration or issuance of the
30 license, certificate, or registration card and pay all fees and
31 fines due to the Department. The Department may establish a fee
32 for the processing of an application for restoration of a
33 license, certificate, or registration card to pay all expenses
34 of processing this application. The Secretary may waive the

1 fines due under this Section in individual cases where the
2 Secretary finds that the fines would be unreasonable or
3 unnecessarily burdensome.

4 Section 125. Roster. The Department shall maintain a roster
5 of names and addresses of all persons who hold valid licenses,
6 certificates, and registration cards and all persons whose
7 licenses, certificates, or registration cards have been
8 suspended or revoked within the previous year. This roster
9 shall be available upon request and payment of the required
10 fee.

11 Section 130. Violations; injunctions; cease and desist
12 order.

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

26 (b) If any person or entity practices as a repossession
27 agency or a recovery manager or holds himself, herself, or
28 itself out as such without having a valid license, certificate,
29 or registration card under this Act, then any licensee,
30 certificate holder, or registration card holder, any person
31 injured thereby, or any resident of or legal entity within the
32 State may, in addition to the Secretary, petition for relief as
33 provided in subsection (a) of this Section.

34 (c) Whenever, in the opinion of the Department or the

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

10 Section 135. Investigation; notice and hearing. The
11 Department may investigate the actions or qualifications of any
12 person or entity holding or claiming to hold a license,
13 certificate, or registration card. Before suspending,
14 revoking, placing on probationary status, or taking any other
15 disciplinary action as the Department may deem proper with
16 regard to any license, certificate, or registration card, at
17 least 30 days before the date set for the hearing, the
18 Department shall (i) notify the accused in writing of any
19 charges made and the time and place for a hearing on the
20 charges before the Board, (ii) direct the accused to file a
21 written answer to the charges with the Board under oath within
22 20 days after the service on the person or entity of such
23 notice, and (iii) inform the accused that failure to file an
24 answer shall result in a default judgment against the person or
25 entity and the person's or entity's license, certificate, or
26 registration card may be suspended, revoked, placed on
27 probationary status, or other disciplinary action taken with
28 regard to the license, as the Department may deem proper. In
29 case the person or entity, after receiving notice, fails to
30 file an answer, the person's or entity's license may, in the
31 discretion of the Department, be suspended, revoked, placed on
32 probationary status, or the Department may take whatever
33 disciplinary action deemed proper, including the imposition of
34 a fine, without a hearing, if the act or acts charged
35 constitute sufficient grounds for such action under this Act.

1 This written notice and any notice in the subsequent
2 proceedings may be served by personal delivery to the accused,
3 or by registered or certified mail to the address last
4 specified by the accused in the last notification to the
5 Department. In case the person or entity fails to file an
6 answer after receiving notice, the person's or entity's license
7 may, in the discretion of the Department, be suspended,
8 revoked, or placed on probationary status, or the Department
9 may take whatever disciplinary action deemed proper, including
10 the imposition of a fine, without a hearing, if the act or acts
11 charged constitute sufficient grounds for such action under
12 this Act. The written answer shall be served by personal
13 delivery, certified delivery, or certified or registered mail
14 to the Department. At the time and place fixed in the notice,
15 the Department shall proceed to hear the charges and the
16 parties or their counsel shall be accorded ample opportunity to
17 present such statements, testimony, evidence, and argument as
18 may be pertinent to the charges or to the defense thereto. The
19 Department may continue such hearing from time to time. At the
20 discretion of the Secretary after having first received the
21 recommendation of the Board, the accused person's or entity's
22 license, certificate, or registration card may be suspended or
23 revoked, if the evidence constitutes sufficient grounds for
24 such action under this Act.

25 Section 140. Record of proceeding. The Department, at its
26 expense, shall preserve a record of all proceedings at the
27 formal hearing of any case. The notice of hearing, complaint
28 and all other documents in the nature of pleadings and written
29 motions filed in the proceedings, the transcript of testimony,
30 the report of the Board and orders of the Department shall be
31 in the record of the proceedings. The Department shall furnish
32 a transcript of the record to any person interested in the
33 hearing upon payment of the fee required under Section 2105-115
34 of the Department of Professional Regulation Law.

1 Section 145. Subpoenas; oaths; attendance of witnesses.
2 The Department has the power to subpoena and to bring before it
3 any person and to take testimony either orally or by
4 deposition, or both, with the same fees and mileage and in the
5 same manner as prescribed in civil cases in the courts of this
6 State. The Secretary, the designated hearing officer, and every
7 member of the Board has power to administer oaths to witnesses
8 at any hearing that the Department is authorized to conduct and
9 any other oaths authorized in any Act administered by the
10 Department. Any circuit court may, upon application of the
11 Department or its designee or of the applicant, licensee,
12 certificate holder, or registration card holder against whom
13 proceedings under this Act are pending, enter an order
14 requiring the attendance of witnesses and their testimony, and
15 the production of documents, papers, files, books and records
16 in connection with any hearing or investigation. The court may
17 compel obedience to its order by proceedings for contempt.

18 Section 150. Recommendations for disciplinary action. At
19 the conclusion of the hearing, the Board shall present to the
20 Secretary a written report of its findings and recommendations.
21 The report shall contain a finding whether or not the accused
22 person or entity violated this Act or failed to comply with the
23 conditions required in this Act. The Board shall specify the
24 nature of the violation or failure to comply, and shall make
25 its recommendations to the Secretary. The report of findings
26 and recommendations of the Board shall be the basis for the
27 Department's order for refusal or for the granting of a
28 license, certificate, or registration card, or for any
29 disciplinary action, unless the Secretary shall determine that
30 the Board's report is contrary to the manifest weight of the
31 evidence, in which case the Secretary may issue an order in
32 contravention of the Board's report. The finding is not
33 admissible in evidence against the person in a criminal
34 prosecution brought for the violation of this Act, but the
35 hearing and finding are not a bar to a criminal prosecution

1 brought for the violation of this Act.

2 Section 155. Rehearing. In any hearing involving
3 disciplinary action against a licensee, certificate holder, or
4 registration card holder, a copy of the Board's report shall be
5 served upon the respondent by the Department, either personally
6 or as provided in this Act for the service of the notice of
7 hearing. Within 20 calendar days after service, the respondent
8 may present to the Department a motion in writing for a
9 rehearing that shall specify the particular grounds for
10 rehearing. If no motion for rehearing is filed, then upon the
11 expiration of the time specified for filing a motion, or if a
12 motion for rehearing is denied, then upon denial, the Secretary
13 may enter an order in accordance with recommendations of the
14 Board, except as provided in this Act. If the respondent orders
15 from the reporting service, and pays for, a transcript of the
16 record within the time for filing a motion for rehearing, the
17 20 calendar day period within which a motion may be filed shall
18 commence upon the delivery of the transcript to the respondent.

19 Section 160. Appointment of a hearing officer. The
20 Secretary has the authority to appoint any attorney duly
21 licensed to practice law in the State of Illinois to serve as
22 the hearing officer in any action for refusal to issue or renew
23 a license, certificate, or registration card or to discipline a
24 licensee, certificate holder, or registration card holder. The
25 hearing officer has full authority to conduct the hearing. The
26 hearing officer shall report his findings and recommendations
27 to the Board and the Secretary. The Board has 60 calendar days
28 from receipt of the report to review the report of the hearing
29 officer and present its findings of fact, conclusions of law
30 and recommendations to the Secretary. If the Board fails to
31 present its report within the 60 calendar day period, the
32 Secretary may issue an order based on the report of the hearing
33 officer. If the Secretary disagrees with the recommendation of
34 the Board or the hearing officer, the Secretary may issue an

1 order in contravention of the recommendation.

2 Section 165. Hearing by other examiner. Whenever the
3 Secretary is not satisfied that substantial justice has been
4 done in the revocation, suspension, or refusal to issue or
5 renew a license, certificate, or registration card, the
6 Secretary may order a rehearing by the same or other examiners.

7 Section 170. Order; certified copy. An order or a
8 certified copy thereof, over the seal of the Department and
9 purporting to be signed by the Secretary, shall be prima facie
10 proof:

11 (a) that the signature is the genuine signature of the
12 Secretary;

13 (b) that the Secretary is duly appointed and qualified; and

14 (c) that the Board and its members are qualified to act.

15 Section 175. Restoration. At any time after the suspension
16 or revocation of any license, certificate, or registration
17 card, the Department may restore the license, certificate, or
18 registration card to the accused person, upon the written
19 recommendation of the Board, unless after an investigation and
20 a hearing the Board determines that restoration is not in the
21 public interest.

22 Section 180. License, certificate, and registration card
23 surrender. Upon the revocation or suspension of any license,
24 certificate, or registration card, the licensee, certificate
25 holder, or registration card holder shall immediately
26 surrender the license, certificate, or registration card to the
27 Department. If the licensee, certificate holder, or
28 registration card holder fails to do so, the Department has the
29 right to seize the license, certificate, or registration card.

30 Section 185. Summary suspension. The Secretary may
31 summarily suspend the license of a repossession agency, the

1 certificate of a recovery manager, or the registration card of
2 an employee without a hearing, simultaneously with the
3 institution of proceedings for a hearing provided for in this
4 Act, if the Secretary finds that evidence in his or her
5 possession indicates that a repossession agency's, recovery
6 manager's, or employee's continuation in the business of
7 collateral recovery would constitute an imminent danger to the
8 public. In the event that the Secretary summarily suspends a
9 license, certificate, or registration card without a hearing, a
10 hearing by the Board must be held within 30 calendar days after
11 the suspension has occurred.

12 Section 190. Judicial review. All final administrative
13 decisions of the Department are subject to judicial review
14 under the Administrative Review Law and its rules. The term
15 "administrative decision" is defined as in Section 3-101 of the
16 Code of Civil Procedure.

17 Proceedings for judicial review shall be commenced in the
18 circuit court of the county in which the party applying for
19 review resides; but if the party is not a resident of this
20 State, the venue shall be in Sangamon County.

21 Section 195. Certification of records. The Department
22 shall not be required to certify any record to the Court or
23 file any answer in court or otherwise appear in any court in a
24 judicial review proceeding, unless there is filed in the court,
25 with the complaint, a receipt from the Department acknowledging
26 payment of the costs of furnishing and certifying the record.
27 Failure on the part of the plaintiff to file such receipt in
28 Court shall be grounds for dismissal of the action.

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

1 Section 205. Illinois Administrative Procedure Act. The
2 Illinois Administrative Procedure Act is expressly adopted and
3 incorporated in this Act as if all of the provisions of that
4 Act were included in this Act, except that the provision of
5 paragraph (d) of Section 10-65 of the Illinois Administrative
6 Procedure Act, which provides that at hearings the license
7 holder has the right to show compliance with all lawful
8 requirements for retention, continuation, or renewal of the
9 certificate, is specifically excluded. For the purpose of this
10 Act, the notice required under Section 10-25 of the Illinois
11 Administrative Procedure Act is deemed sufficient when mailed
12 to the last known address of a party.