

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, 2.03, and 3 and by adding Sections 9.1, 9.2, 9.3,  
6 9.4, and 9.7 as follows:

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

8 (Section scheduled to be repealed on January 1, 2016)

9 Sec. 2. Definitions. In this Act:

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

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

19 "Creditor" means a person who extends consumer credit to a  
20 debtor.

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

1       "Debt collection" means any act or practice in connection  
2 with the collection of consumer debts.

3       "Debt collector", "collection agency", or "agency" means  
4 any person who, in the ordinary course of business, regularly,  
5 on behalf of himself or herself or others, engages in debt  
6 collection.

7       "Debtor" means a natural person from whom a debt collector  
8 seeks to collect a consumer debt that is due and owing or  
9 alleged to be due and owing from such person.

10       "Department" means Division of Professional Regulation  
11 within the Department of Financial and Professional  
12 Regulation.

13       "Director" means the Director of the Division of  
14 Professional Regulation within the Department of Financial and  
15 Professional Regulation.

16       "Person" means a natural person, partnership, corporation,  
17 limited liability company, trust, estate, cooperative,  
18 association, or other similar entity. ~~Unless the context~~  
19 ~~clearly requires otherwise, the following terms have the~~  
20 ~~meanings ascribed to them in Sections 2.01 through 2.02.~~

21       (Source: P.A. 78-1248.)

22       (225 ILCS 425/2.03) (from Ch. 111, par. 2005)

23       (Section scheduled to be repealed on January 1, 2016)

24       Sec. 2.03. This Act does not apply to persons whose  
25 collection activities are confined to and are directly related

1 to the operation of a business other than that of a collection  
2 agency, and specifically does not include the following:

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

7 2. Abstract companies doing an escrow business;

8 3. Real estate brokers when acting in the pursuit of  
9 their profession;

10 4. Public officers and judicial officers acting under  
11 order of a court;

12 5. Licensed attorneys at law;

13 6. Insurance companies;

14 7. Credit unions, including affiliates and  
15 subsidiaries thereof;

16 8. Loan and finance companies;

17 9. Retail stores collecting their own accounts;

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

21 11. Any person or business under contract with a  
22 creditor to notify the creditor's debtors of a debt using  
23 only the creditor's name.

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

25 (225 ILCS 425/3) (from Ch. 111, par. 2006)

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

2 Sec. 3. A person, association, partnership, corporation,  
3 or other legal entity acts as a collection agency when he or  
4 it:

5 (a) Engages in the business of collection for others of  
6 any account, bill or other indebtedness;

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

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

21 (d) Buys accounts, bills or other indebtedness ~~with~~  
22 ~~recourse~~ and engages in collecting the same; or

23 (e) Uses a fictitious name in collecting its own  
24 accounts, bills, or debts with the intention of conveying  
25 to the debtor that a third party has been employed to make  
26 such collection.

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

2 (225 ILCS 425/9.1 new)

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

4 Sec. 9.1. Communication with persons other than debtor.

5 (a) Any debt collector or collection agency communicating  
6 with any person other than the debtor for the purpose of  
7 acquiring location information about the debtor shall:

8 (1) identify himself or herself, state that he or she  
9 is confirming or correcting location information  
10 concerning the consumer, and, only if expressly requested,  
11 identify his or her employer;

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

13 (3) not communicate with any person more than once  
14 unless requested to do so by the person or unless the debt  
15 collector or collection agency reasonably believes that  
16 the earlier response of the person is erroneous or  
17 incomplete and that the person now has correct or complete  
18 location information;

19 (4) not communicate by postcard;

20 (5) not use any language or symbol on any envelope or  
21 in the contents of any communication effected by mail or  
22 telegram that indicates that the debt collector or  
23 collection agency is in the debt collection business or  
24 that the communication relates to the collection of a debt;  
25 and

1           (6) after the debt collector or collection agency knows  
2           the debtor is represented by an attorney with regard to the  
3           subject debt and has knowledge of or can readily ascertain  
4           the attorney's name and address, not communicate with any  
5           person other than the attorney, unless the attorney fails  
6           to respond within a reasonable period of time, not less  
7           than 30 days, to communication from the debt collector or  
8           collection agency.

9           (225 ILCS 425/9.2 new)

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

11          Sec. 9.2. Communication in connection with debt  
12          collection.

13          (a) Without the prior consent of the debtor given directly  
14          to the debt collector or collection agency or the express  
15          permission of a court of competent jurisdiction, a debt  
16          collector or collection agency may not communicate with a  
17          debtor in connection with the collection of any debt in any of  
18          the following circumstances:

19               (1) At any unusual time, place, or manner that is known  
20               or should be known to be inconvenient to the debtor. In the  
21               absence of knowledge of circumstances to the contrary, a  
22               debt collector or collection agency shall assume that the  
23               convenient time for communicating with a debtor is after 8  
24               o'clock a.m. and before 9 o'clock p.m. local time at the  
25               debtor's location.

1           (2) If the debt collector or collection agency knows  
2           the debtor is represented by an attorney with respect to  
3           such debt and has knowledge of or can readily ascertain,  
4           the attorney's name and address, unless the attorney fails  
5           to respond within a reasonable period of time to a  
6           communication from the debt collector or collection agency  
7           or unless the attorney consents to direct communication  
8           with the debtor.

9           (3) At the debtor's place of employment, if the debt  
10          collector or collection agency knows or has reason to know  
11          that the debtor's employer prohibits the debtor from  
12          receiving such communication.

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

23          (c) If a debtor notifies a debt collector or collection  
24          agency in writing that the debtor refuses to pay a debt or that  
25          the debtor wishes the debt collector or collection agency to  
26          cease further communication with the debtor, the debt collector

1 or collection agency may not communicate further with the  
2 debtor with respect to such debt, except to perform any of the  
3 following tasks:

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

6 (2) Notify the debtor that the collection agency or  
7 creditor may invoke specified remedies that are ordinarily  
8 invoked by such collection agency or creditor.

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

11 If such notice from the debtor is made by mail,  
12 notification shall be complete upon receipt. (d) For the  
13 purposes of this Section, "debtor" includes the debtor's  
14 spouse, parent (if the debtor is a minor), guardian, executor,  
15 or administrator.

16 (225 ILCS 425/9.3 new)

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

18 Sec. 9.3. Validation of debts.

19 (a) Within 5 days after the initial communication with a  
20 debtor in connection with the collection of any debt, a debt  
21 collector or collection agency shall, unless the following  
22 information is contained in the initial communication or the  
23 debtor has paid the debt, send the debtor a written notice with  
24 each of the following disclosures:

25 (1) The amount of the debt.



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

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

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

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

20           (b) If the debtor notifies the debt collector or collection  
21 agency in writing within the 30-day period set forth in  
22 paragraph (3) of subsection (a) of this Section that the debt,  
23 or any portion thereof, is disputed or that the debtor requests  
24 the name and address of the original creditor, the debt  
25 collector or collection agency shall cease collection of the  
26 debt, or any disputed portion thereof, until the debt collector

1 or collection agency obtains verification of the debt or a copy  
2 of a judgment or the name and address of the original creditor  
3 and mails a copy of the verification or judgment or name and  
4 address of the original creditor to the debtor.

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

8 (225 ILCS 425/9.4 new)

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

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

11 (a) Upon receipt from a debtor of all of the following  
12 information, a debt collector or collection agency must cease  
13 collection activities until completion of the review provided  
14 in subsection (d) of this Section:

15 (1) A copy of a police report filed by the debtor  
16 alleging that the debtor is the victim of an identity theft  
17 crime for the specific debt being collected by the debt  
18 collector.

19 (2) The debtor's written statement that the debtor  
20 claims to be the victim of identity theft with respect to  
21 the specific debt being collected by the debt collector,  
22 including (i) a Federal Trade Commission's Affidavit of  
23 Identity Theft, (ii) an Illinois Attorney General ID Theft  
24 Affidavit, or (iii) a written statement that certifies that  
25 the representations are true, correct, and contain no

1 material omissions of fact to the best knowledge and belief  
2 of the person submitting the certification. This written  
3 statement must contain or be accompanied by, each of the  
4 following, to the extent that an item listed below is  
5 relevant to the debtor's allegation of identity theft with  
6 respect to the debt in question:

7 (A) A statement that the debtor is a victim of  
8 identity theft.

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

11 (C) Any other identification document that  
12 supports the statement of identity theft.

13 (D) Specific facts supporting the claim of  
14 identity theft, if available.

15 (E) Any explanation showing that the debtor did not  
16 incur the debt.

17 (F) Any available correspondence disputing the  
18 debt after transaction information has been provided  
19 to the debtor.

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

26 (H) A telephone number for contacting the debtor

1 concerning any additional information or questions or  
2 direction that further communications to the debtor be  
3 in writing only, with the mailing address specified in  
4 the statement.

5 (I) To the extent the debtor has information  
6 concerning who may have incurred the debt, the  
7 identification of any person whom the debtor believes  
8 is responsible.

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

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

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

17 (Signature)

18 (Date)"

19 (c) If a debtor notifies a debt collector or collection  
20 agency orally that he or she is a victim of identity theft, the  
21 debt collector or collection agency shall notify the debtor  
22 orally or in writing, that the debtor's claim must be in  
23 writing. If a debtor notifies a debt collector or collection

1 agency in writing that he or she is a victim of identity theft,  
2 but omits information required pursuant to this Section, if the  
3 debt collector or collection agency does not cease collection  
4 activities, the debt collector or collection agency must  
5 provide written notice to the debtor of the additional  
6 information that is required or send the debtor a copy of the  
7 Federal Trade Commission's Affidavit of Identity Theft form.

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

25 (e) No inference or presumption that the debt is valid or  
26 invalid or that the debtor is liable or not liable for the debt

1 may arise if the debt collector or collection agency decides  
2 after the review described in subsection (d) to cease or  
3 recommence the debt collection activities. The exercise or  
4 non-exercise of rights under this Section is not a waiver of  
5 any other right or defense of the debtor or debt collector.

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

12 (225 ILCS 425/9.7 new)

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

19 (225 ILCS 425/2.01 rep.)

20 (225 ILCS 425/2.02 rep.)

21 Section 10. The Collection Agency Act is amended by  
22 repealing Sections 2.01 and 2.02.

23 Section 99. Effective date. This Act takes effect January  
24 1, 2008.