



Sen. Kirk W. Dillard

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09300SB2456sam002

LRB093 20572 AMC 48967 a

1 AMENDMENT TO SENATE BILL 2456

2 AMENDMENT NO. _____. Amend Senate Bill 2456, AS AMENDED,
3 by replacing everything after the enacting clause with the
4 following:

5 "Section 5. The Illinois State Collection Act of 1986 is
6 amended by changing Section 2 as follows:

7 (30 ILCS 210/2) (from Ch. 15, par. 152)

8 Sec. 2. This Act applies to all accounts or claims owed to
9 "State agencies", as that term is defined in the Illinois State
10 Auditing Act, except that the debt collection and write-off
11 provisions of this Act shall not apply to the Illinois State
12 Scholarship Commission in the administration of its student
13 loan programs nor to the Illinois circuit courts in the
14 collection of unpaid court fines, forfeitures, fees, costs,
15 penalties, assessments, surcharges, or restitution. To the
16 extent that some other statute prescribes procedures for
17 collection of particular types of accounts or claims owed to
18 State agencies in conflict with the provisions of this Act,
19 such other statute shall continue in full force and effect. The
20 debt collection and write-off provisions of this Act may be
21 utilized by the General Assembly, the Supreme Court and the
22 several courts of this State, and the constitutionally elected
23 State Officers, at their discretion. However reporting
24 requirements established by the comptroller shall be followed

1 by all State agencies. The provisions of this Act shall be
2 utilized at all times by all departments, agencies, divisions,
3 and offices under the jurisdiction of the Governor.

4 (Source: P.A. 85-814.)

5 Section 10. The Collection Agency Act is amended by
6 changing Section 9 and by adding Section 8d as follows:

7 (225 ILCS 425/8d new)

8 (Section scheduled to be repealed on January 1, 2006)

9 Sec. 8d. Collection fees. At the time a past due account is
10 forwarded to a third-party collector, units of Illinois State
11 or local government or Illinois circuit courts may provide for
12 the imposition of a collection fee added to any amounts past
13 due. This collection fee shall be in addition to any other
14 amounts owed to such units of State or local government or the
15 Illinois circuit courts. The collection fee shall be collected
16 under a contract and shall be in addition to any amounts due.
17 The person owing the past due amount is liable for the
18 collection fee provided for under this Section. The amount of
19 the collection fee is the amount provided by the contract,
20 whether a specified amount or an amount contingent on the
21 amount collected, for compensation of the person with whom the
22 contract is made and any additional court costs or attorney's
23 fees incurred in collecting the amount owed to the State, units
24 of local government or Illinois circuit courts.

25 (225 ILCS 425/9) (from Ch. 111, par. 2012)

26 (Section scheduled to be repealed on January 1, 2006)

27 Sec. 9. (a) The Department may refuse to issue or renew, or
28 may revoke, suspend, place on probation, reprimand or take
29 other disciplinary action as the Department may deem proper,
30 including fines not to exceed \$1,000 per licensee per
31 complaint, for any one or any combination of the following

1 causes:

2 (1) Violations of this Act or of the rules promulgated
3 hereunder.

4 (2) Conviction of the collection agency or the
5 principals of the agency of any crime under the laws of any
6 U.S. jurisdiction which is a felony, a misdemeanor an
7 essential element of which is dishonesty, or of any crime
8 which directly relates to the practice of the profession.

9 (3) Making any misrepresentation for the purpose of
10 obtaining a license or certificate.

11 (4) Habitual or excessive use or addiction to alcohol,
12 narcotics, stimulants or any other chemical agent or drug
13 which results in the inability to practice with reasonable
14 judgment, skill, or safety by any of the principals of a
15 collection agency.

16 (5) Discipline by another U.S. jurisdiction or foreign
17 nation, if at least one of the grounds for the discipline
18 is the same or substantially equivalent to those set forth
19 in this Act.

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

23 (7) Practicing or attempting to practice under a name
24 other than the name as shown on his or her license or any
25 other legally authorized name.

26 (8) A finding by the Federal Trade Commission that a
27 licensee violated the Federal Fair Debt and Collection Act
28 or its rules.

29 (9) Failure to file a return, or to pay the tax,
30 penalty or interest shown in a filed return, or to pay any
31 final assessment of tax, penalty or interest, as required
32 by any tax Act administered by the Illinois Department of
33 Revenue until such time as the requirements of any such tax
34 Act are satisfied.

1 (10) Using or threatening to use force or violence to
2 cause physical harm to a debtor, his family or his
3 property.

4 (11) Threatening to instigate an arrest or criminal
5 prosecution where no basis for a criminal complaint
6 lawfully exists.

7 (12) Threatening the seizure, attachment or sale of a
8 debtor's property where such action can only be taken
9 pursuant to court order without disclosing that prior court
10 proceedings are required.

11 (13) Disclosing or threatening to disclose information
12 adversely affecting a debtor's reputation for credit
13 worthiness with knowledge the information is false.

14 (14) Initiating or threatening to initiate
15 communication with a debtor's employer unless there has
16 been a default of the payment of the obligation for at
17 least 30 days and at least 5 days prior written notice, to
18 the last known address of the debtor, of the intention to
19 communicate with the employer has been given to the
20 employee, except as expressly permitted by law or court
21 order.

22 (15) Communicating with the debtor or any member of the
23 debtor's family at such a time of day or night and with
24 such frequency as to constitute harassment of the debtor or
25 any member of the debtor's family. For purposes of this
26 Section the following conduct shall constitute harassment:

27 (A) Communicating with the debtor or any member of
28 his or her family in connection with the collection of
29 any debt without the prior consent of the debtor given
30 directly to the debt collector, or the express
31 permission of a court of competent jurisdiction, at any
32 unusual time or place or a time or place known or which
33 should be known to be inconvenient to the debtor. In
34 the absence of knowledge of circumstances to the

1 contrary, a debt collector shall assume that the
2 convenient time for communicating with a consumer is
3 after 8 o'clock a.m. and before 9 o'clock p.m. local
4 time at the debtor's location.

5 (B) The threat of publication or publication of a
6 list of consumers who allegedly refuse to pay debts,
7 except to a consumer reporting agency.

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

10 (D) Causing a telephone to ring or engaging any
11 person in telephone conversation repeatedly or
12 continuously with intent to annoy, abuse, or harass any
13 person at the called number.

14 (16) Using profane, obscene or abusive language in
15 communicating with a debtor, his or her family or others.

16 (17) Disclosing or threatening to disclose information
17 relating to a debtor's indebtedness to any other person
18 except where such other person has a legitimate business
19 need for the information or except where such disclosure is
20 regulated by law.

21 (18) Disclosing or threatening to disclose information
22 concerning the existence of a debt which the debt collector
23 knows to be reasonably disputed by the debtor without
24 disclosing the fact that the debtor disputes the debt.

25 (19) Engaging in any conduct which the Director finds
26 was intended to cause and did cause mental or physical
27 illness to the debtor or his or her family.

28 (20) Attempting or threatening to enforce a right or
29 remedy with knowledge or reason to know that the right or
30 remedy does not exist.

31 (21) Failing to disclose to the debtor or his or her
32 family the corporate, partnership or proprietary name, or
33 other trade or business name, under which the debt
34 collector is engaging in debt collections and which he or

1 she is legally authorized to use.

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

6 (23) Using any badge, uniform, or other indicia of any
7 governmental agency or official except as authorized by
8 law.

9 (24) Conducting business under any name or in any
10 manner which suggests or implies that a debt collector is
11 bonded if such collector is or is a branch of or is
12 affiliated with any governmental agency or court if such
13 collector is not.

14 (25) Failing to disclose, at the time of making any
15 demand for payment, the name of the person to whom the
16 claim is owed and at the request of the debtor, the address
17 where payment is to be made and the address of the person
18 to whom the claim is owed.

19 (26) Misrepresenting the amount of the claim or debt
20 alleged to be owed.

21 (27) Representing that an existing debt may be
22 increased by the addition of attorney's fees,
23 investigation fees or any other fees or charges when such
24 fees or charges may not legally be added to the existing
25 debt.

26 (28) Representing that the debt collector is an
27 attorney at law or an agent for an attorney if he is not.

28 (29) Except as provided in Section 8d, collecting
29 ~~Collecting~~ or attempting to collect any interest or other
30 charge or fee in excess of the actual debt or claim unless
31 such interest or other charge or fee is expressly
32 authorized by the agreement creating the debt or claim
33 unless expressly authorized by law or unless in a
34 commercial transaction such interest or other charge or fee

1 is expressly authorized in a subsequent agreement. If a
2 contingency or hourly fee arrangement (i) is established
3 under an agreement between a collection agency and a
4 creditor to collect a debt and (ii) is paid by a debtor
5 pursuant to a contract between the debtor and the creditor,
6 then that fee arrangement does not violate this Section
7 unless the fee is unreasonable. The Department shall
8 determine what constitutes a reasonable collection fee.

9 (30) Communicating or threatening to communicate with
10 a debtor when the debt collector is informed in writing by
11 an attorney that the attorney represents the debtor
12 concerning the claim, unless authorized by the attorney. If
13 the attorney fails to respond within a reasonable period of
14 time, the collector may communicate with the debtor. The
15 collector may communicate with the debtor when the attorney
16 gives his consent.

17 (31) Engaging in dishonorable, unethical, or
18 unprofessional conduct of a character likely to deceive,
19 defraud, or harm the public.

20 (b) The Department shall deny any license or renewal
21 authorized by this Act to any person who has defaulted on an
22 educational loan guaranteed by the Illinois State Scholarship
23 Commission; however, the Department may issue a license or
24 renewal if the person in default has established a satisfactory
25 repayment record as determined by the Illinois State
26 Scholarship Commission.

27 No debt collector while collecting or attempting to collect
28 a debt shall engage in any of the Acts specified in this
29 Section, each of which shall be unlawful practice.

30 (Source: P.A. 91-768, eff. 1-1-01.)".