

SB0096



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

SB0096

Introduced 1/31/2007, by Sen. Mike Jacobs

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.

LRB095 03850 RAS 23881 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning regulation.

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

4 Section 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

1 original written assignment.

2 "Board" means the Illinois Repossession and Recovery
3 Board.

4 "Certified recovery manager" means a person who possesses a
5 valid certificate in accordance with the provisions of this Act
6 and is in active control or management of a repossession
7 agency.

8 "Collateral" means any vehicle, boat, recreational
9 vehicle, motor home, motorcycle, appliance, or other property
10 that is subject to a security agreement.

11 "Contingency" means contingent upon recovering collateral

12 "Debtor" means any person obligated under a security
13 agreement.

14 "Department" means the Department of Financial and
15 Professional Regulation.

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

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

23 "Personal effects" means any property contained within
24 repossessed collateral that is not the property of the legal
25 owner.

26 "Repossession agency" means any person or entity that, for

1 any type of consideration, engages in the business of, accepts
2 employment to furnish, or agrees to provide or provides skip
3 tracing services, property locating services, property
4 recovery, recovered property transportation, recovered
5 property storage, or all services relevant to any of the
6 following:

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

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

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

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

17 (5) The possession of collateral.

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

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

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

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

26 (3) An officer or employee of the United States of

1 America or of this State or a political subdivision of this
2 State, while the officer or employee is engaged in the
3 performance of his or her official duties.

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

6 "Repossession agency employee" means a person who is hired
7 by a licensed repossession agency to recover property and who
8 holds a permanent employee registration card in accordance with
9 the provisions of this Act.

10 "Secretary" means the Secretary of Financial and
11 Professional Regulation.

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

20 Section 15. Illinois Repossession and Recovery Board.

21 (a) There is established within the Department, the
22 Illinois Repossession and Recovery Board. The Board shall be
23 composed of 7 members appointed by the Secretary who shall
24 serve in an advisory capacity to the Secretary. The Board shall
25 elect a chairperson and a vice chairperson.

1 (b) In appointing members of the Board, the Secretary shall
2 give due consideration to recommendations by members of the
3 collateral recovery profession and by statewide organizations
4 solely representing the interests of repossession agencies and
5 collateral recovery managers.

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

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

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

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

21 (g) The Secretary may remove any member of the Board for
22 any cause that, in the opinion of the Secretary, reasonably
23 justifies termination.

24 (h) The Secretary may consider the recommendations of the
25 Board on questions of standards of professional conduct,
26 discipline, and qualification of candidates or licensees under

1 this Act.

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

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

8 Section 20. Rulemaking; enforcement. The Department may
9 adopt any rules and procedures necessary to administer the
10 provisions of this Act and shall work in conjunction with the
11 Secretary of State Police in adopting any rules and procedures
12 necessary to enforce the provisions of this Act.

13 Section 25. Licensure, certification, or registration
14 required.

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

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

22 (c) It shall be unlawful for any person to practice,
23 attempt to practice, or hold himself or herself out to be a
24 repossession agency employee unless he or she holds a valid

1 permanent employee registration card issued by the Department
2 under the provisions of this Act.

3 Section 30. Application for repossession agency licensure.

4 (a) Application for original licensure as a repossession
5 agency shall be made to the Department in writing on forms
6 prescribed by the Department and shall be accompanied by the
7 appropriate documentation and the required fee, which fee is
8 nonrefundable.

9 (b) Every application shall state, in addition to any other
10 requirements, (i) the name of the applicant, (ii) the name
11 under which the applicant will do business, (iii) the proposed
12 location of the agency by number and street and city, and (iv)
13 the usual business hours that the agency will maintain. The
14 residential address and telephone number and the driver's
15 license number of each applicant, if requested, shall be
16 confidential and may not be released to the public.

17 (c) No license may be issued in (i) any fictitious name
18 that may be confused with or is similar to any federal, State,
19 county, or municipal government function or agency, (ii) any
20 name that may tend to describe any business function or
21 enterprise not actually engaged in by the applicant, (iii) any
22 name that is the same as or similar to any existing licensee as
23 would tend to deceive the public, or (iv) any name that would
24 tend to be deceptive or misleading.

25 (d) If the applicant for repossession agency licensure is

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

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

20 (f) If the applicant for repossession agency licensure is a
21 corporation, the application shall include (i) the names and
22 full residential addresses of all corporation officers and (ii)
23 a sworn statement signed by a duly authorized officer of the
24 corporation verifying the name of the officer who is a
25 certified recovery manager and shall be actively in charge of
26 the agency or the name of the certified recovery manager who is

1 not an officer, but shall be actively in charge of the agency.
2 If a certified recovery manager who is not an officer shall be
3 actively in charge of the agency, he or she must also sign the
4 sworn statement. The application shall also state whether any
5 of the officers has ever used an alias.

6 (g) If the applicant for repossession agency licensure is a
7 limited liability company, the application shall include (i)
8 the names and full residential addresses of all company owners
9 and (ii) a sworn statement signed by each owner verifying the
10 name of the owner who is a certified recovery manager and shall
11 be actively in charge of the agency or the name of the
12 certified recovery manager who is not an owner, but shall be
13 actively in charge of the agency. If a certified recovery
14 manager who is not an owner shall be actively in charge of the
15 agency, he or she must also sign the sworn statement. The
16 application shall also state whether any of the owners has ever
17 used an alias.

18 (h) Each individual, partner of a partnership, officer of a
19 corporation, or owner of a limited liability company shall
20 submit with the application, one form of personal
21 identification upon which shall appear a photograph taken
22 within one year immediately proceeding the date of the filing
23 of the application.

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

26 (j) The Department may require any additional information

1 that, in the judgment of the Department, shall enable the
2 Department to pass on the qualifications of the applicant for
3 licensure.

4 (k) Applicants have one year from the date of application
5 to complete the application process. If the application has not
6 been completed within one year, the application shall be
7 denied, the fee shall be forfeited, and the applicant must
8 reapply and meet the requirements in effect at the time of
9 reapplication.

10 (l) Nothing in this Section shall permit a domestic or
11 foreign liability company to be licensed as a repossession
12 agency.

13 Section 35. Qualifications for recovery manager;
14 identification card.

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

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

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

22 (3) Is of good moral character, which is a continuing
23 requirement of licensure. Conviction of a crime not
24 included under item (2) of this Section may be used in
25 determining moral character, but may not operate as an

1 absolute bar from licensure.

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

6 (5) Is not suffering from habitual drunkenness or
7 narcotic addiction or dependence.

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

14 (7) Has submitted to the Department 2 recent
15 photographs of himself or herself and 2 sets of
16 fingerprints, which shall be checked against the
17 fingerprint records on file with the Department of State
18 Police and the Federal Bureau of Investigation in the
19 manner set forth in Section 50 of this Act.

20 (8) Has successfully passed the required examination
21 authorized by the Department.

22 (9) Has successfully completed the Certified Asset
23 Recovery Specialist (C.A.R.S.) and the Recovery Education
24 and Certification Training (R.E.A.C.T.) national
25 certification programs.

26 (10) Has not been dishonorably discharged from the

1 Armed Services of the United States.

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

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

11 Section 40. Repossession agency employee requirements.

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

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

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

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

1 process of law.

2 (C) Has had a license or permanent employee
3 registration card denied, suspended, or revoked under
4 this Act.

5 (D) Has been declared incompetent by any court of
6 competent jurisdiction by reason of mental disease or
7 defect and has not been restored.

8 (E) Has not successfully completed the Certified
9 Asset Recovery Specialist (C.A.R.S.) and the Recovery
10 Education and Certification Training (R.E.A.C.T.)
11 national certification programs.

12 (F) Has been dishonorably discharged from the
13 armed services of the United States.

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

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

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

26 (C) That the person has not had a license or

1 employee registration denied, revoked, or suspended
2 under this Act.

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

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

6 (F) Any dishonorable discharge from the armed
7 services of the United States.

8 (G) Any other information as may be required by any
9 rule of the Department to show the good character,
10 competency, and integrity of the person executing the
11 statement.

12 (b) Each applicant for a permanent employee registration
13 card shall have his or her fingerprints submitted to the
14 Department of State Police in an electronic format that
15 complies with the form and manner for requesting and furnishing
16 criminal history record information as prescribed by the
17 Department of State Police. These fingerprints shall be checked
18 against the Department of State Police and Federal Bureau of
19 Investigation criminal history record databases now and
20 hereafter filed. The Department of State Police shall charge
21 applicants a fee for conducting the criminal history records
22 check, which shall be deposited in the State Police Services
23 Fund and shall not exceed the actual cost of the records check.
24 The Department of State Police shall furnish, pursuant to
25 positive identification, records of Illinois convictions to
26 the Department. The Department may require applicants to pay a

1 separate fingerprinting fee, either to the Department or
2 directly to a designated vendor. The Department, in its
3 discretion, may allow an applicant who does not have reasonable
4 access to a designated vendor to provide his or her
5 fingerprints in an alternative manner. The Department, in its
6 discretion, may also use other procedures in performing or
7 obtaining criminal history records checks of applicants.
8 Instead of submitting his or her fingerprints, an individual
9 may submit proof that is satisfactory to the Department that an
10 equivalent security clearance has been conducted.

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

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

1 registration card is accompanied by the employee
2 identification card required by subsection (f) of this Section.

3 (e) Each employer shall maintain a record of each employee
4 that is accessible to the duly authorized representatives of
5 the Department. The record shall contain all of the following
6 information:

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

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

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

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

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

1 identification card number.

2 (g) No employer may issue an employee identification card
3 to any person who is not employed by the employer in accordance
4 with this Section or falsely state or represent that a person
5 is or has been in his or her employ. It is unlawful for an
6 applicant for registered employment to file with the Department
7 the fingerprints of a person other than himself or herself or
8 to fail to exercise due diligence in resubmitting replacement
9 fingerprints for those employees who have had original
10 fingerprint submissions returned as unclassifiable.

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

13 (i) No agency may employ any person to perform a licensed
14 activity under this Act unless the person possesses a valid
15 permanent employee registration card or the person has a valid
16 license under this Act.

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

20 (1) The agency completes in its entirety and submits to
21 the Department an application for a permanent employee
22 registration card, including the required fingerprint
23 receipt and fees.

24 (2) The agency has verification from the Department
25 that the applicant has no record of any criminal conviction
26 pursuant to the criminal history records check conducted by

1 the Department of State Police. The agency shall maintain
2 the verification of the results of the Department of State
3 Police criminal history records check as part of the
4 employee record as required under subsection (e) of this
5 Section.

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

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

14 An agency may employ only a permanent employee applicant
15 for which it either submitted a permanent employee application
16 and all required forms and fees or it confirms with the
17 Department that a permanent employee application and all
18 required forms and fees have been submitted by another agency
19 and all other requirements of this Section are met.

20 The Department shall have the authority to revoke, without
21 a hearing, the temporary authority of an individual to work
22 upon receipt of Federal Bureau of Investigation fingerprint
23 data or a report of another official authority indicating a
24 criminal conviction. If the Department has not received a
25 temporary employee's Federal Bureau of Investigation
26 fingerprint data within 120 days after the date the Department

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

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

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

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

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

7 (n) This Section applies only to those employees of
8 licensed repossession agencies whose duties include actual
9 repossession of collateral.

10 Section 45. SSN or FEIN on application. In addition to any
11 other information required by the Department to be contained in
12 the application, every application for an original, renewal, or
13 restored license shall include the applicant's Social Security
14 Number (SSN) if an individual or Federal Employer
15 Identification Number (FEIN) if not an individual. The
16 Department shall not disclose an individual's SSN and must keep
17 that SSN confidential unless disclosure is required by law.

18 Section 50. Criminal background check. The Secretary shall
19 require that each individual, partner of a partnership, officer
20 of a corporation, or owner of a limited liability company, as
21 part of the application process, authorize a criminal history
22 records check to determine if such applicant has ever been
23 charged with a crime and if so, the disposition of those
24 charges. Upon this authorization, each individual, partner of a

1 partnership, officer of a corporation, or owner of a limited
2 liability company shall submit his or her fingerprints to the
3 Department of State Police in the form and manner prescribed by
4 the Department of State Police. These fingerprints shall be
5 checked against the fingerprint records now and hereafter filed
6 in the Department of State Police and Federal Bureau of
7 Investigation criminal history records databases. The
8 Department of State Police shall charge a fee for conducting
9 the criminal history records check, which shall be deposited in
10 the State Police Services Fund and shall not exceed the actual
11 cost of the records check. The Department of State Police shall
12 provide information concerning any criminal charges, and their
13 disposition, now or hereafter filed, against an applicant upon
14 request of the Secretary when the request is made in the form
15 and manner required by the Department of State Police.

16 Section 55. Examinations.

17 (a) The Department may authorize examinations of
18 applicants as recovery managers and repossession agency
19 employees at least once every other month at such places and on
20 such specific dates as it may determine. The examination of
21 applicants shall be of a character to give a fair test of the
22 qualifications of the applicants to engage in the practice of
23 collateral recovery.

24 (b) In order to be eligible for initial examination, an
25 applicant must have completed and filed his or her application,

1 together with the application fee prescribed by the Department,
2 not later than 30 days prior to the next scheduled examination
3 date. Applicants whose applications are not completed and filed
4 within the 30-day time period may, at the discretion of the
5 Department, be scheduled for the first examination following
6 the scheduled examination.

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

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

17 Section 60. Certified recovery manager in charge of
18 repossession agency.

19 (a) As a condition of licensure, a certified recovery
20 manager must, at all times, be actively in charge of a
21 repossession agency.

22 (b) A certified recovery manager may only be actively in
23 charge of one repossession agency at one time. Upon written
24 request by a representative of an agency within 10 days after
25 the loss of the certified recovery manager actively in charge

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

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

1 of a reinstatement application.

2 (d) Except as otherwise provided in this Act, no person may
3 serve as the certified recovery manager actively in charge of a
4 licensed repossession agency if that person has ever had a
5 repossession agency license revoked or suspended or if the
6 person was a partner, managing employee, owner, or officer of a
7 repossession agency the license of which has been revoked for
8 cause.

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

12 (f) The certificate of the recovery manager actively in
13 charge of a licensed repossession agency, together with the
14 agency's license, shall be conspicuously displayed at the
15 agency location of which the recovery manager is actively in
16 charge.

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

19 Section 65. License extension in cases of death or
20 disassociation.

21 (a) In the case of the death of a person who is licensed
22 individually as a repossession agency, a member of the deceased
23 licensee's immediate family shall be entitled to continue
24 operating the agency under the same license for up to 120 days
25 following the licensee's date of death, provided that written

1 notice is given to the Department within 30 days following the
2 licensee's date of death. At the end of the 120-day period, the
3 license shall automatically be revoked.

4 (b) In the case of the death or disassociation of a partner
5 of a partnership licensed as a repossession agency, the
6 licensee shall notify the Department, in writing, within 30
7 days from the death or disassociation of the partner. If the
8 licensee fails to notify the Department within the 30-day
9 period, the license shall automatically be revoked at the end
10 of that period. If proper notice is given, the license shall
11 remain in force for 90 days following the date of death or
12 disassociation of the partner. At the end of the 90-day period,
13 the licensee shall automatically be revoked.

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

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

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

21 (b) A renewal repossession agency license or recovery
22 manager certificate shall expire 2 years after the date of
23 renewal.

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

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

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

1 the service, training, or education, except under condition
2 other than honorable, he or she furnishes the Department with
3 satisfactory evidence to the effect that he or she has been so
4 engaged and that the service, training, or education has been
5 so terminated.

6 (f) A suspended repossession agency license, recovery
7 manager certificate, or permanent employee registration card
8 is subject to expiration as set forth in this Section; however,
9 renewal of the license, certificate, or registration card does
10 not entitle the licensee, certificate holder, or registration
11 card holder, while the license, certificate, or registration
12 card remains suspended and until it is reinstated, to engage in
13 the licensed, certified, or registered activity.

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

25 (h) Any person or entity that notifies the Department, in
26 writing on forms prescribed by the Department, may place a

1 license, certificate, or registration card on inactive status
2 and shall be excused from the payment of renewal fees until the
3 person or entity notifies the Department in writing of the
4 intention to resume active practice. Any person or entity
5 requesting that a license, certificate, or registration card be
6 changed from inactive to active status shall be required to pay
7 the current renewal fee.

8 (i) Any repossession agency licensee, recovery manager
9 certificate holder, or permanent employee registration card
10 holder whose license, certificate, or registration card is
11 nonrenewed or on inactive status shall not engage in the
12 practice of recovery in the State or use the title or advertise
13 that he, she, or it performs the services of a "licensed
14 repossession agency", "certified recovery manager", or
15 "repossession agency employee".

16 (j) Any person violating subsection (i) of this Section
17 shall be considered to be operating a repossession agency
18 without a license, acting as a recovery manager without a
19 certificate, or acting as a repossession agency employee
20 without a permanent employee registration card and is subject
21 to the disciplinary provisions of this Act.

22 (k) A repossession agency license, recovery manager
23 certificate, or permanent employee registration card that is
24 not renewed within 3 years after its expiration may not be
25 renewed, restored, reinstated, or reissued thereafter. The
26 holder of the license, certificate, or registration card may

1 obtain a new license, certificate, or registration card only
2 upon compliance with all of the provisions of this Act
3 concerning the issuance of an original license, certificate, or
4 registration card.

5 Section 75. Refusal, revocation, or suspension.

6 (a) The Department may refuse to issue or renew or may
7 revoke a license, certificate, or registration card or may
8 suspend, place on probation, fine, or take any disciplinary
9 action as the Department may deem proper, including fines not
10 to exceed \$2,500 for each violation, with regard to any
11 licensee, certificate holder, or registration card holder for
12 any one or combination of the following causes:

13 (1) Knowingly making any misrepresentation for the
14 purpose of obtaining a license, certificate, or
15 registration card.

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

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

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

24 (5) Engaging in dishonorable, unethical, or
25 unprofessional conduct of a character likely to deceive,

1 defraud, or harm the public as defined by the rules of the
2 Department, or violating the rules adopted by the Board.

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

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

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

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

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

21 (b) The entry of an order by a circuit court establishing
22 that any person holding a license, certificate, or registration
23 card under Department rule is subject to involuntary admission
24 or judicial admission as provided for in the Mental Health and
25 Developmental Disabilities Code operates as an automatic
26 suspension of that license, certificate, or registration card.

1 That person may have his or her license, certificate, or
2 registration card restored only upon the determination by a
3 circuit court that the patient is no longer subject to
4 involuntary admission or judicial admission and the issuance of
5 an order so finding and discharging the patient or at the
6 discretion of the Department. Where the circumstances so
7 indicate, the Department may require an examination prior to
8 restoring a suspended license, certificate, or registration
9 card.

10 (c) The Department may refuse to issue or may suspend the
11 license, certificate, or registration card of any person or
12 entity who fails to file a return, pay the tax, penalty, or
13 interest shown in a filed return or pay any final assessment of
14 tax, penalty, or interest, as required by any tax Act
15 administered by the Department of Revenue, until the time the
16 requirements of the tax Act are satisfied.

17 Section 80. Consideration of past crimes.

18 (a) Notwithstanding the prohibitions set forth in Sections
19 35 and 40 of this Act, when considering the denial of a
20 license, certificate, or registration card on the grounds of
21 conviction of a crime, the Department, in evaluating the
22 rehabilitation of the applicant and the applicant's present
23 eligibility for a license, certificate, or registration card,
24 shall consider each of the following criteria:

25 (1) the nature and severity of the act or crime under

1 consideration as grounds for denial;

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

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

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

12 (5) evidence, if any, of rehabilitation submitted by
13 the applicant.

14 (b) When considering the suspension or revocation of a
15 license, certificate, or registration card on the grounds of
16 conviction of a crime, the Department, in evaluating the
17 rehabilitation of the applicant and the applicant's present
18 eligibility for a license, certificate, or registration card,
19 shall consider each of the following criteria:

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

21 (2) the licensee's, certificate holder's, or
22 registration card holder's criminal record in its
23 entirety;

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

26 (4) whether the licensee, certificate holder, or

1 registration card holder has complied with any terms of
2 parole, probation, restitution, or any other sanctions
3 lawfully imposed against him or her;

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

6 (6) evidence, if any, of rehabilitation submitted by
7 the licensee, certificate holder, or registration card
8 holder.

9 Section 85. Assignment of repossession agency license.

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

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

17 Section 90. Insurance required. No repossession agency
18 license shall be issued unless the applicant first files with
19 the Department a certification of insurance evidencing
20 coverage in the required amount. The coverage shall provide the
21 Department as an additional insured for the purpose of
22 receiving all notices of modifications or cancellation of such
23 insurance. Coverage shall be written by an insurance company
24 that is lawfully engaged to provide insurance coverage in

1 Illinois. Coverage shall provide for a combined single limit
2 policy in the amount of at least \$1,000,000, which policy shall
3 include commercial general liability for wrongful
4 repossession, dishonesty bond, garage keepers, on hook, and
5 drive-away. Coverage shall insure for the liability of all
6 employees certified by the Department while acting in the
7 course of their employment.

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

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

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

1 Section 105. Local filing. Nothing in this Act shall
2 prevent local authorities in any city, county, or city and
3 county, by ordinance and within the exercise of the police
4 power of the city or county from requiring repossession agency
5 licensees and recovery manager certificate holders to register
6 their names and file a copy of their State identification cards
7 with the city, county, or city and county. No fee may be
8 charged nor may any application be required by the city or
9 county for this registration.

10 Section 110. Repossession of vehicles.

11 (a) With regard to collateral subject to registration under
12 the Illinois Vehicle Code, repossession occurs when the
13 reposessor gains entry into the collateral or when the
14 collateral becomes connected to a tow truck.

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

20 Section 115. Deposit of fees and fines. All of the fees and
21 fines collected under this Act shall be deposited into the
22 General Professions Dedicated Fund.

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

1 Secretary finds that the fines would be unreasonable or
2 unnecessarily burdensome.

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

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

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

1 (b) If any person or entity practices as a repossession
2 agency or a recovery manager or holds himself, herself, or
3 itself out as such without having a valid license, certificate,
4 or registration card under this Act, then any licensee,
5 certificate holder, or registration card holder, any person
6 injured thereby, or any resident of or legal entity within the
7 State may, in addition to the Secretary, petition for relief as
8 provided in subsection (a) of this Section.

9 (c) Whenever, in the opinion of the Department or the
10 Board, any person or entity violates any provision of this Act,
11 the Department may issue a rule to show cause why an order to
12 cease and desist should not be entered against that person or
13 entity. The rule shall clearly set forth the grounds relied
14 upon by the Department and shall provide a period of 7 days
15 from the date of the rule to file an answer to the satisfaction
16 of the Department. Failure to answer to the satisfaction of the
17 Department shall cause an order to cease and desist to be
18 issued immediately.

19 Section 135. Investigation; notice and hearing. The
20 Department may investigate the actions or qualifications of any
21 person or entity holding or claiming to hold a license,
22 certificate, or registration card. Before suspending,
23 revoking, placing on probationary status, or taking any other
24 disciplinary action as the Department may deem proper with
25 regard to any license, certificate, or registration card, at

1 least 30 days before the date set for the hearing, the
2 Department shall (i) notify the accused in writing of any
3 charges made and the time and place for a hearing on the
4 charges before the Board, (ii) direct the accused to file a
5 written answer to the charges with the Board under oath within
6 20 days after the service on the person or entity of such
7 notice, and (iii) inform the accused that failure to file an
8 answer shall result in a default judgment against the person or
9 entity and the person's or entity's license, certificate, or
10 registration card may be suspended, revoked, placed on
11 probationary status, or other disciplinary action taken with
12 regard to the license, as the Department may deem proper. In
13 case the person or entity, after receiving notice, fails to
14 file an answer, the person's or entity's license may, in the
15 discretion of the Department, be suspended, revoked, placed on
16 probationary status, or the Department may take whatever
17 disciplinary action deemed proper, including the imposition of
18 a fine, without a hearing, if the act or acts charged
19 constitute sufficient grounds for such action under this Act.
20 This written notice and any notice in the subsequent
21 proceedings may be served by personal delivery to the accused,
22 or by registered or certified mail to the address last
23 specified by the accused in the last notification to the
24 Department. In case the person or entity fails to file an
25 answer after receiving notice, the person's or entity's license
26 may, in the discretion of the Department, be suspended,

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

18 Section 140. Record of proceeding. The Department, at its
19 expense, shall preserve a record of all proceedings at the
20 formal hearing of any case. The notice of hearing, complaint
21 and all other documents in the nature of pleadings and written
22 motions filed in the proceedings, the transcript of testimony,
23 the report of the Board and orders of the Department shall be
24 in the record of the proceedings. The Department shall furnish
25 a transcript of the record to any person interested in the

1 hearing upon payment of the fee required under Section 2105-115
2 of the Department of Professional Regulation Law.

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

20 Section 150. Recommendations for disciplinary action. At
21 the conclusion of the hearing, the Board shall present to the
22 Secretary a written report of its findings and recommendations.
23 The report shall contain a finding whether or not the accused
24 person or entity violated this Act or failed to comply with the

1 conditions required in this Act. The Board shall specify the
2 nature of the violation or failure to comply, and shall make
3 its recommendations to the Secretary. The report of findings
4 and recommendations of the Board shall be the basis for the
5 Department's order for refusal or for the granting of a
6 license, certificate, or registration card, or for any
7 disciplinary action, unless the Secretary shall determine that
8 the Board's report is contrary to the manifest weight of the
9 evidence, in which case the Secretary may issue an order in
10 contravention of the Board's report. The finding is not
11 admissible in evidence against the person in a criminal
12 prosecution brought for the violation of this Act, but the
13 hearing and finding are not a bar to a criminal prosecution
14 brought for the violation of this Act.

15 Section 155. Rehearing. In any hearing involving
16 disciplinary action against a licensee, certificate holder, or
17 registration card holder, a copy of the Board's report shall be
18 served upon the respondent by the Department, either personally
19 or as provided in this Act for the service of the notice of
20 hearing. Within 20 calendar days after service, the respondent
21 may present to the Department a motion in writing for a
22 rehearing that shall specify the particular grounds for
23 rehearing. If no motion for rehearing is filed, then upon the
24 expiration of the time specified for filing a motion, or if a
25 motion for rehearing is denied, then upon denial, the Secretary

1 may enter an order in accordance with recommendations of the
2 Board, except as provided in this Act. If the respondent orders
3 from the reporting service, and pays for, a transcript of the
4 record within the time for filing a motion for rehearing, the
5 20 calendar day period within which a motion may be filed shall
6 commence upon the delivery of the transcript to the respondent.

7 Section 160. Appointment of a hearing officer. The
8 Secretary has the authority to appoint any attorney duly
9 licensed to practice law in the State of Illinois to serve as
10 the hearing officer in any action for refusal to issue or renew
11 a license, certificate, or registration card or to discipline a
12 licensee, certificate holder, or registration card holder. The
13 hearing officer has full authority to conduct the hearing. The
14 hearing officer shall report his findings and recommendations
15 to the Board and the Secretary. The Board has 60 calendar days
16 from receipt of the report to review the report of the hearing
17 officer and present its findings of fact, conclusions of law
18 and recommendations to the Secretary. If the Board fails to
19 present its report within the 60 calendar day period, the
20 Secretary may issue an order based on the report of the hearing
21 officer. If the Secretary disagrees with the recommendation of
22 the Board or the hearing officer, the Secretary may issue an
23 order in contravention of the recommendation.

24 Section 165. Hearing by other examiner. Whenever the

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

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

9 (a) that the signature is the genuine signature of the
10 Secretary;

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

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

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

20 Section 180. License, certificate, and registration card
21 surrender. Upon the revocation or suspension of any license,
22 certificate, or registration card, the licensee, certificate
23 holder, or registration card holder shall immediately

1 surrender the license, certificate, or registration card to the
2 Department. If the licensee, certificate holder, or
3 registration card holder fails to do so, the Department has the
4 right to seize the license, certificate, or registration card.

5 Section 185. Summary suspension. The Secretary may
6 summarily suspend the license of a repossession agency, the
7 certificate of a recovery manager, or the registration card of
8 an employee without a hearing, simultaneously with the
9 institution of proceedings for a hearing provided for in this
10 Act, if the Secretary finds that evidence in his or her
11 possession indicates that a repossession agency's, recovery
12 manager's, or employee's continuation in the business of
13 collateral recovery would constitute an imminent danger to the
14 public. In the event that the Secretary summarily suspends a
15 license, certificate, or registration card without a hearing, a
16 hearing by the Board must be held within 30 calendar days after
17 the suspension has occurred.

18 Section 190. Judicial review. All final administrative
19 decisions of the Department are subject to judicial review
20 under the Administrative Review Law and its rules. The term
21 "administrative decision" is defined as in Section 3-101 of the
22 Code of Civil Procedure.

23 Proceedings for judicial review shall be commenced in the
24 circuit court of the county in which the party applying for

1 review resides; but if the party is not a resident of this
2 State, the venue shall be in Sangamon County.

3 Section 195. Certification of records. The Department
4 shall not be required to certify any record to the Court or
5 file any answer in court or otherwise appear in any court in a
6 judicial review proceeding, unless there is filed in the court,
7 with the complaint, a receipt from the Department acknowledging
8 payment of the costs of furnishing and certifying the record.
9 Failure on the part of the plaintiff to file such receipt in
10 Court shall be grounds for dismissal of the action.

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

15 Section 205. Illinois Administrative Procedure Act. The
16 Illinois Administrative Procedure Act is expressly adopted and
17 incorporated in this Act as if all of the provisions of that
18 Act were included in this Act, except that the provision of
19 paragraph (d) of Section 10-65 of the Illinois Administrative
20 Procedure Act, which provides that at hearings the license
21 holder has the right to show compliance with all lawful
22 requirements for retention, continuation, or renewal of the
23 certificate, is specifically excluded. For the purpose of this

1 Act, the notice required under Section 10-25 of the Illinois
2 Administrative Procedure Act is deemed sufficient when mailed
3 to the last known address of a party.