

1 AMENDMENT TO SENATE BILL 263

2 AMENDMENT NO. _____. Amend Senate Bill 263, on page 1,
3 below line 20, by inserting the following:

4 "Section 15. The Detection of Deception Examiners Act
5 is amended by changing Sections 1, 11, 17, 18, 22, 23, 24,
6 25, 26.1, 29, and 30 and adding Sections 7.2 and 7.3 as
7 follows:

8 (225 ILCS 430/1) (from Ch. 111, par. 2401)

9 Sec. 1. Definitions. As used in this Act, unless the
10 context otherwise requires: "Detection of Deception
11 Examination", hereinafter referred to as "Examination" means
12 any examination in which a device or instrument is used to
13 test or question individuals for the purpose of evaluating
14 truthfulness or untruthfulness.

15 "Examiner" means any person licensed under this Act.

16 "Person" includes any natural person, partnership,
17 association, corporation or trust.

18 "Department" means the Department of Professional
19 Regulation of the State of Illinois.

20 "Director" means the Director of Professional Regulation
21 of the State of Illinois.

22 "~~Committee~~"--means--the--Detection--of--Deception--Examiner

1 ~~Committee-provided-for-in-this-Act.~~

2 "Him" means both the male and female gender.

3 (Source: P.A. 85-1209.)

4 (225 ILCS 430/7.2 new)

5 Sec. 7.2. Detection of Deception Examiners Act
6 Coordinator. The Director shall appoint a Detection of
7 Deception Examiners Act Coordinator to assist the Department
8 in the administration of this Act. The Detection of
9 Deception Examiners Act Coordinator shall be a person
10 licensed under this Act and shall have no less than 10 years
11 of experience as an Illinois licensed Detection of Deception
12 Examiner. The Detection of Deception Examiners Act
13 Coordinator shall perform such administrative functions on a
14 full or part-time basis as may be delegated to him or her by
15 the Director, including, but not limited to, revision of the
16 licensing examination and review of the training and
17 qualifications of applicants from a jurisdiction outside of
18 Illinois.

19 Whenever the Director is satisfied that substantial
20 justice has not been done in an examination, he may order a
21 re-examination by the same or other examiners.

22 (225 ILCS 430/7.3 new)

23 Sec. 7.3. Appointment of a Hearing Officer. The
24 Director has the authority to appoint an attorney, licensed
25 to practice law in the State of Illinois, to serve as a
26 Hearing Officer in any action for refusal to issue or renew a
27 license or to discipline a license. The Hearing Officer has
28 full authority to conduct the hearing. The appointed
29 Detection of Deception Coordinator may attend hearings and
30 advise the Hearing Officer on technical matters involving
31 Detection of Deception examinations.

1 (225 ILCS 430/11) (from Ch. 111, par. 2412)

2 Sec. 11. Qualifications for licensure as an examiner. A
3 person is qualified to receive a license as an examiner:

4 A. Who establishes that he is a person of good moral
5 character; and

6 B. Who has passed an examination approved by the
7 Department ~~conducted by the Examiner Committee, or under its~~
8 ~~supervision,~~ to determine his competency to obtain a license
9 to practice as an examiner; and

10 C. Who has had conferred upon him an academic degree, at
11 the baccalaureate level, from an accredited college or
12 university; and

13 D. Who has satisfactorily completed 6 months of study in
14 detection of deception, as prescribed by rule.

15 Conviction of a misdemeanor involving moral turpitude or
16 a felony may be considered, but shall not be determinative,
17 in determining whether an applicant is of good moral
18 character.

19 (Source: P.A. 82-200.)

20 (225 ILCS 430/17) (from Ch. 111, par. 2418)

21 Sec. 17. Complaints; investigations. The Department may
22 upon its own motion and shall, upon the verified complaint in
23 writing of any person setting forth facts which if proved
24 would constitute grounds for refusal, suspension or
25 revocation of a license under this Act, investigate the
26 actions of any applicant or ~~of~~ any person or persons holding
27 or claiming to hold a license. The Department shall, before
28 refusing to issue and before suspension or revocation of a
29 license, at least 30 days prior to the date set for the
30 hearing, notify in writing the applicant for, or holder of, a
31 license of the nature of the charges and that a hearing will
32 be held on the date designated. The Department shall direct
33 the applicant or licensee to file a written answer with ~~to~~

1 the Department Board under oath within 20 days after the
2 service of the notice and inform the applicant or licensee
3 that failure to file an answer will result in default being
4 taken against the applicant or licensee and that the license
5 or certificate may be suspended, revoked, placed on
6 probationary status, or other disciplinary action may be
7 taken, including limiting the scope, nature or extent of
8 practice, as the Director may deem proper. In case the person
9 fails to file an answer after receiving notice, his or her
10 license or certificate may, in the discretion of the
11 Department, be suspended, revoked, or placed on probationary
12 status, or the Department may take whatever disciplinary
13 action deemed proper, including limiting the scope, nature,
14 or extent of the person's practice or the imposition of a
15 fine, without a hearing, if the act or acts charged
16 constitute sufficient grounds for such action under this Act.
17 The hearing shall determine whether the applicant or holder,
18 hereinafter called the respondent is privileged to hold a
19 license, and shall afford the respondent an opportunity to be
20 heard in person or by counsel in reference thereto. Written
21 notice may be served by delivery of the same personally to
22 the respondent at the address of his last notification to the
23 Department. At the time and place fixed in the notice, the
24 Department Committee shall proceed to hear the charges and
25 both the respondent and Department complainant shall be
26 accorded ample opportunity to present in person or by counsel
27 such statements, testimony, evidence and argument as may be
28 pertinent to the charges or to their defense. The Department
29 Committee may continue the hearing from time to time. If--the
30 ~~Committee shall not be sitting at the time and place fixed in~~
31 ~~the notice or at the time and place to which the hearing~~
32 ~~shall have been continued, the Director shall continue the~~
33 ~~hearing for a period not to exceed 30 days, unless extended~~
34 ~~by stipulation of both parties.~~

1 (Source: P.A. 87-1031.)

2 (225 ILCS 430/18) (from Ch. 111, par. 2419)

3 Sec. 18. Stenographer; transcript; Hearing Officer
4 Committee report. The Department, at its expense, shall
5 provide a stenographer to take down the testimony and
6 preserve a record of all proceedings at the hearing of any
7 case involving the refusal to issue or the suspension or
8 revocation of a license. The notice of hearing, complaint and
9 all other documents in the nature of pleadings and written
10 motions filed in the proceedings, the transcript of
11 testimony, the report of the Hearing Officer Committee and
12 orders of the Department shall be the records of the
13 proceedings. The Department shall furnish a transcript of the
14 record to any person or persons interested in the hearing
15 upon the payment of the fee required under Section 2105-115
16 of the Department of Professional Regulation Law (20 ILCS
17 2105/2105-115).

18 At the conclusion of the hearing, the Hearing Officer
19 shall make findings of fact, conclusions of law, and
20 recommendations, separately stated, and submit them to the
21 Director and to all parties to the proceeding.

22 The Hearing Officer's findings of fact, conclusions of
23 law, and recommendations shall be served upon the licensee in
24 a similar fashion as service of the notice of formal charges.
25 Within 20 days after the service, any party to the proceeding
26 may present to the Director a motion, in writing, specifying
27 the particular grounds for a rehearing.

28 The Director, following the time allowed for filing a
29 motion for rehearing, shall review the Hearing Officer's
30 findings of fact, conclusions of law, and recommendations and
31 any subsequently filed motions. After review of the
32 information, the Director may hear oral arguments and
33 thereafter shall issue the order. The report of findings of

1 fact, conclusions of law, and recommendations of the Hearing
 2 Officer shall be the basis for the Department's order. If
 3 the Director finds that substantial justice was not done, the
 4 Director may issue an order in contravention of the Hearing
 5 Officer's recommendations. The Director shall promptly
 6 provide a written explanation to all parties to the
 7 proceeding of any disagreement with the Hearing Officer's
 8 recommendations. In any case involving the refusal to issue
 9 or the suspension or revocation of a license, a copy of the
 10 Committee's report shall be served upon the respondent by the
 11 Department, either personally or by registered or certified
 12 mail as provided in this Act for the service of the notice of
 13 hearing. Within 20 days after service, the respondent may
 14 present to the Department a motion in writing for a
 15 rehearing, which shall specify the particular grounds for
 16 rehearing. If no motion for rehearing is filed, then upon the
 17 expiration of the time specified for filing a motion, or if a
 18 motion for rehearing is denied, then upon denial the Director
 19 may enter an order in accordance with recommendations of the
 20 Committee. If the respondent shall order and pay for a
 21 transcript of the record within the time for filing a motion
 22 for rehearing, the 20-day period within which a motion may be
 23 filed shall commence upon the delivery of the transcript to
 24 the respondent.

25 (Source: P.A. 91-239, eff. 1-1-00.)

26 (225 ILCS 430/22) (from Ch. 111, par. 2423)

27 Sec. 22. Regulations; forms. The Director, on the
 28 recommendation of the Committee, may issue regulations,
 29 consistent with the provisions of this Act, for the
 30 administration and enforcement thereof and may prescribe
 31 forms which shall be issued in connection therewith.

32 (Source: Laws 1963, p. 3300.)

1 (225 ILCS 430/23) (from Ch. 111, par. 2424)

2 Sec. 23. Action or counterclaim. No action or
3 counterclaim shall be maintained by any person in any court
4 in this State with respect to any agreement or services for
5 which a license is required by this Act or to recover the
6 agreed price or any compensation under any such agreement, or
7 for such services for which a license is required by this Act
8 without alleging and proving ~~providing~~ that such person had a
9 valid license at the time of making such agreement or doing
10 such work.

11 (Source: Laws 1963, p. 3300.)

12 (225 ILCS 430/24) (from Ch. 111, par. 2425)

13 Sec. 24. Injunctions; cease and desist orders. If any
14 person violates a the provision of this Act, the Director
15 may, in the name of the People of the State of Illinois,
16 through the Attorney General of the State of Illinois, apply,
17 in the circuit court, for an order enjoining such violation
18 or for an order enforcing compliance with this Act. Upon the
19 filing of a verified complaint in such court, the court or
20 any judge thereof, if satisfied by affidavit or otherwise
21 that such person has violated this Act, may enter a temporary
22 restraining order or preliminary injunction, without notice
23 or bond, enjoining such continued violation, and if it is
24 established that such person has violated or is violating
25 this Act, the Court may summarily try and punish the offender
26 for contempt of court. Proceedings under this section shall
27 be in addition to, and not in lieu of, all other remedies and
28 penalties provided by this Act.

29 The Department may conduct hearings and issue cease and
30 desist orders with respect to persons who engage in
31 activities prohibited by this Act. Any person in violation
32 of a cease and desist order entered by the Department shall
33 be subject to all of the remedies provided by law and, in

1 addition, shall be subject to a civil penalty payable to the
 2 party injured by the violation in an amount up to \$10,000.
 3 (Source: P.A. 83-334.)

4 (225 ILCS 430/25) (from Ch. 111, par. 2426)
 5 Sec. 25. Order or certified copy; prima facie proof. An
 6 order or a certified copy thereof, over the seal of the
 7 Department and purporting to be signed by the Director, shall
 8 be prima facie proof that:

- 9 (a) the signature is the genuine signature of the
 10 Director; and
- 11 (b) the Director is duly appointed and qualified;
 12 and
- 13 ~~(c) the Committee and the members thereof are~~
 14 ~~qualified to act.~~

15 (Source: P.A. 91-357, eff. 7-29-99.)

16 (225 ILCS 430/26.1) (from Ch. 111, par. 2427.1)
 17 Sec. 26.1. Returned checks; fines. Any person who
 18 delivers a check or other payment to the Department that is
 19 returned to the Department unpaid by the financial
 20 institution upon which it is drawn shall pay to the
 21 Department, in addition to the amount already owed to the
 22 Department, a fine of \$50. ~~If the check or other payment was~~
 23 ~~for a renewal or issuance fee and that person practices~~
 24 ~~without paying the renewal fee or issuance fee and the fine~~
 25 ~~due, an additional fine of \$100 shall be imposed.~~ The fines
 26 imposed by this Section are in addition to any other
 27 discipline provided under this Act for unlicensed practice or
 28 practice on a nonrenewed license. The Department shall notify
 29 the person that payment of fees and fines shall be paid to
 30 the Department by certified check or money order within 30
 31 calendar days of the notification. If, after the expiration
 32 of 30 days from the date of the notification, the person has

1 failed to submit the necessary remittance, the Department
 2 shall automatically terminate the license or certificate or
 3 deny the application, without hearing. If, after termination
 4 or denial, the person seeks a license or certificate, he or
 5 she shall apply to the Department for restoration or issuance
 6 of the license or certificate and pay all fees and fines due
 7 to the Department. The Department may establish a fee for the
 8 processing of an application for restoration of a license or
 9 certificate to pay all expenses of processing this
 10 application. The Director may waive the fines due under this
 11 Section in individual cases where the Director finds that the
 12 fines would be unreasonable or unnecessarily burdensome.

13 (Source: P.A. 87-1031.)

14 (225 ILCS 430/29) (from Ch. 111, par. 2430)

15 Sec. 29. Restoration of license. At any time after the
 16 suspension or revocation of any license, the Department may
 17 restore it to the accused person, ~~upon the written~~
 18 ~~recommendation of the Committee.~~

19 (Source: Laws 1963, p. 3300.)

20 (225 ILCS 430/30) (from Ch. 111, par. 2431)

21 Sec. 30. An applicant who is an Examiner, licensed under
 22 the laws of another state or territory of the United States,
 23 may be issued a license without examination by the
 24 Department, in its discretion, upon payment of a fee as set
 25 by rule ~~of \$50.00~~, and the production of satisfactory proof:
 26 ;

- 27 (a) that he is of good moral character; and
- 28 (b) that the requirements for the licensing of Examiners
- 29 in such particular state or territory of the United States
- 30 were, at the date of licensing, substantially equivalent to
- 31 the requirements then in force in this State.

32 (Source: P.A. 82-200.)

1 (225 ILCS 430/7 rep.)

2 Section 20. The Detection of Deception Examiners Act is

3 amended by repealing Section 7."