

AN ACT concerning regulation.

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

Section 5. The Collateral Recovery Act is amended by changing Sections 45, 80, and 85 as follows:

(225 ILCS 422/45)

(Section scheduled to be repealed on January 1, 2022)

Sec. 45. Repossession agency employee requirements.

(a) All employees of a licensed repossession agency whose duties include the actual repossession of collateral must apply for a recovery permit. The holder of a repossession agency license issued under this Act, known in this Section as the "employer", may employ in the conduct of the business under the following provisions:

(1) No person may be issued a recovery permit who meets any of the following criteria:

(A) Is younger than 21 years of age.

(B) Has been convicted of a crime identified in paragraph (3) of subsection (a) of Section 80 of this Act and the Commission determines the ability of the person to engage in the position for which a permit is sought is impaired as a result of the conviction. ~~Has been determined by the Commission to be unfit by reason~~

~~of conviction of an offense in this or another state, other than a minor traffic offense, that the Commission determines in accordance with Section 85 will impair the ability of the person to engage in the position for which a permit is sought. The Commission shall adopt rules for making those determinations.~~

(C) Has had a license or recovery permit denied, suspended, or revoked under this Act.

(D) Has not successfully completed a certification program approved by the Commission.

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

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

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

(C) That the person has not had a license or recovery permit denied, revoked, or suspended under this Act.

(D) Any conviction of a felony, except as provided

for in Section 85.

(E) Any other information as may be required by any rule of the Commission to show the good character, competency, and integrity of the person executing the statement.

(b) Each applicant for a recovery permit shall have his or her fingerprints submitted to the Commission by a Live Scan fingerprint vendor certified by the Illinois State Police under the Private Detective, Private Alarm, Private Security, Fingerprint Vendor, and Locksmith Act of 2004 in an electronic format that complies with the form and manner for requesting and furnishing criminal history record information as prescribed by the Illinois State Police. These fingerprints shall be checked against the Illinois State Police and Federal Bureau of Investigation criminal history record databases now and hereafter filed. The Commission shall charge applicants a fee for conducting the criminal history records check, which shall not exceed the actual cost of the records check. The Illinois Commerce Commission Police shall furnish, pursuant to positive identification, records of Illinois convictions to the Commission. The Commission, in its discretion, may allow an applicant who does not have reasonable access to a designated vendor to provide his or her fingerprints in an alternative manner. The Commission, in its discretion, may also use other procedures in performing or obtaining criminal history records checks of applicants. Instead of submitting his or her

fingerprints, an individual may submit proof that is satisfactory to the Commission that an equivalent security clearance has been conducted.

(c) Qualified applicants shall purchase a recovery permit from the Commission and in a form that the Commission prescribes. The Commission shall notify the submitting person within 10 days after receipt of the application of its intent to issue or deny the recovery permit. The holder of a recovery permit shall carry the recovery permit at all times while actually engaged in the performance of the duties of his or her employment. No recovery permit shall be effective unless accompanied by a license issued by the Commission. Expiration and requirements for renewal of recovery permits shall be established by rule of the Commission. Possession of a recovery permit does not in any way imply that the holder of the recovery permit is employed by any agency unless the recovery permit is accompanied by the employee identification card required by subsection (e) of this Section.

(d) Each employer shall maintain a record of each employee that is accessible to the duly authorized representatives of the Commission. The record shall contain all of the following information:

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

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

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

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

(e) Every employer shall furnish an employee identification card to each of his or her employees. This subsection (e) shall not apply to office or clerical personnel. This employee identification card shall contain a recent photograph of the employee, the employee's name, the name and agency license number of the employer, the employee's personal description, the signature of the employer, the signature of that employee, the date of issuance, and an employee identification card number.

(f) No employer may issue an employee identification card to any person who is not employed by the employer in accordance with this Section or falsely state or represent that a person is or has been in his or her employ. It is unlawful for an applicant for registration to file with the Commission the fingerprints of a person other than himself or herself or to fail to exercise due diligence in resubmitting replacement fingerprints for those employees who have had original

fingerprint submissions returned as unclassifiable. An agency shall inform the Commission within 15 days after contracting or employing a licensed repossession agency employee. The Commission shall develop a registration process by rule.

(g) Every employer shall obtain the identification card of every employee who terminates employment with the employer. An employer shall immediately report an identification card that is lost or stolen to the local police department having jurisdiction over the repossession agency location.

(h) No agency may employ any person to perform any activity under this Act unless the person possesses a valid license or recovery permit under this Act.

(i) If information is discovered affecting the registration of a person whose fingerprints were submitted under this Section, then the Commission shall so notify the agency that submitted the fingerprints on behalf of that person.

(j) A person employed under this Section shall have 15 business days within which to notify the Commission of any change in employer, but may continue working under any other recovery permits granted as an employee or independent contractor.

(k) This Section applies only to those employees of licensed repossession agencies whose duties include actual repossession of collateral.

(l) An applicant who is 21 years of age or older seeking a

religious exemption to the photograph requirement of this Section shall furnish with his or her application an approved copy of United States Department of the Treasury Internal Revenue Service Form 4029. Regardless of age, an applicant seeking a religious exemption to this photograph requirement shall submit fingerprints in a form and manner prescribed by the Commission with his or her application in lieu of a photograph.

(Source: P.A. 100-286, eff. 1-1-18.)

(225 ILCS 422/80)

(Section scheduled to be repealed on January 1, 2022)

Sec. 80. Refusal, revocation, or suspension.

(a) The Commission may refuse to issue or renew or may revoke any license or recovery permit or may suspend, place on probation, fine, or take any disciplinary action that the Commission may deem proper, including fines not to exceed \$2,500 for each violation, with regard to any license ~~holder~~ or recovery permit holder or applicant for one or any combination of the following causes:

(1) Knowingly making any misrepresentation for the purpose of obtaining a license or recovery permit.

(2) Violations of this Act or its rules.

(3) For a license ~~licensees~~ or permit holder or applicant ~~holders~~, conviction of any crime under the laws of the United States or any state or territory thereof that

is (i) a felony, (ii) a misdemeanor, an essential element of which is dishonesty, or (iii) a crime that is related to the practice of the profession. For license or permit holders or applicants, the provisions of Section 85 of this Act apply. ~~Commission may refuse to issue a license or permit based on restrictions set forth in paragraph (2) of subsection (a) of Section 40 and subparagraph (B) of paragraph (1) of subsection (a) of Section 45, respectively, if the Commission determines in accordance with Section 85 that such conviction will impair the ability of the applicant to engage in the position for which a license or permit is sought.~~

(4) Aiding or abetting another in violating any provision of this Act or its rules.

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

(6) Violation of any court order from any State or public agency engaged in the enforcement of payment of child support arrearages or for noncompliance with certain processes relating to paternity or support proceeding.

(7) Solicitation of professional services by using false or misleading advertising.

(8) A finding that the license or recovery permit was obtained by fraudulent means.

(9) Practicing or attempting to practice under a name



other than the full name shown on the license or recovery permit or any other legally authorized name.

(b) The Commission may refuse to issue or may suspend the license or recovery permit of any person or entity who fails to file a return, pay the tax, penalty, or interest shown in a filed return, or pay any final assessment of tax, penalty, or interest, as required by any tax Act administered by the Department of Revenue, until the time the requirements of the tax Act are satisfied. The Commission may take into consideration any pending tax disputes properly filed with the Department of Revenue.

(Source: P.A. 100-286, eff. 1-1-18.)

(225 ILCS 422/85)

(Section scheduled to be repealed on January 1, 2022)

Sec. 85. Consideration of past crimes.

(a) The Commission shall not require the license or permit holder or applicant ~~applicant~~ to report the following information and shall not consider the following criminal history records in connection with an application for a license or permit under this Act:

(1) Juvenile adjudications of delinquent minors as defined in Section 5-105 of the Juvenile Court Act of 1987, subject to the restrictions set forth in Section 5-130 of the Juvenile Court Act of 1987.

(2) Law enforcement records, court records, and

conviction records of an individual who was 18 ~~17~~ years old or younger at the time of the conviction for the offense and before January 1, 2014, unless the nature of the offense required the individual to be tried as an adult.

(3) Records of arrest not followed by a conviction.

(4) Convictions overturned by a higher court.

(5) Convictions or arrests that have been sealed or expunged.

(b) When considering the denial of a license or recovery permit on the grounds of conviction of a crime, ~~including those set forth in paragraph (2) of subsection (a) of Section 40 and subparagraph (B) of paragraph (1) of subsection (a) of Section 45, respectively,~~ the Commission, in evaluating whether the conviction will impair the license or permit holder's or applicant's ability to engage in the position for which a license or permit is sought and the license or permit holder's or applicant's present eligibility for a license or recovery permit, shall consider each of the following criteria:

(1) The lack of direct relation of the offense for which the license or permit holder or applicant was previously convicted to the duties, functions, and responsibilities of the position for which a license or permit is sought.

(2) Circumstances relative to the offense, including the license or permit holder's or applicant's age at the time that the offense was committed.

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

(4) Whether 5 years since a conviction or 3 years since successful completion of the imposed sentence ~~release from confinement~~ for the conviction, whichever is later, have passed without a subsequent conviction.

(5) Successful completion of sentence or for license or permit holders or applicants serving a term of parole or probation, a progress report provided by the license or permit holder's or applicant's probation or parole officer that documents the license or permit holder's or applicant's compliance with conditions of supervision.

(6) If the license or permit holder or applicant was previously licensed or employed in this State or other states or jurisdictions, then the lack of prior misconduct arising from or related to the licensed position or position of employment.

(7) Evidence of rehabilitation or rehabilitative effort during or after incarceration, or during or after a term of supervision, including, but not limited to, a certificate of good conduct under Section 5-5.5-25 of the Unified Code of Corrections or a certificate of relief from disabilities under Section 5-5.5-10 of the Unified Code of Corrections.

(8) Any other mitigating factors that contribute to the license or permit holder's or applicant's ~~person's~~ potential and current ability to perform the duties and responsibilities of practices licensed or registered under this Act.

(c) When considering the suspension or revocation of a license or recovery permit on the grounds of conviction of a crime, the Commission, in evaluating the rehabilitation of the license or permit holder ~~applicant~~, whether the conviction will impair the license or permit holder's ~~applicant's~~ ability to engage in the position for which a license or permit is sought, and the license or permit holder's ~~applicant's~~ present eligibility for a license or recovery permit, shall consider each of the following criteria:

(1) The nature and severity of the act or offense.

(2) The license holder's or recovery permit holder's criminal record in its entirety.

(3) The amount of time that has lapsed since the commission of the act or offense.

(4) Whether the license holder or recovery permit holder has complied with any terms of parole, probation, restitution, or any other sanctions lawfully imposed against him or her.

(5) If applicable, evidence of expungement proceedings.

(6) Evidence, if any, of rehabilitation submitted by

the license holder or recovery permit holder.

(d) If the Commission refuses to issue or renew a license or permit, or suspends, revokes, places on probation, or takes any disciplinary action that the Commission may deem proper against a license or permit ~~grant a license or permit to an applicant,~~ then the Commission shall notify the license or permit holder or applicant of the decision ~~denial~~ in writing with the following included in the notice of decision ~~denial~~:

(1) a statement about the decision ~~to refuse to grant a license or permit;~~

(2) a list of the convictions that the Commission determined will impair the license or permit holder's or applicant's ability to engage in the position for which a license or permit is sought;

(3) a list of convictions that formed the sole or partial basis for the decision ~~refusal to grant a license or permit;~~ and

(4) a summary of the appeal process or the earliest reapplication for a license or permit is permissible ~~the applicant may reapply for a license or permit,~~ whichever is applicable.

(e) No later than May 1 of each year, the Commission must prepare, publicly announce, and publish a report of summary statistical information relating to new and renewal license or permit applications during the preceding calendar year. Each report shall show, at a minimum:

(1) the number of applicants for a new or renewal license or permit under this Act within the previous calendar year;

(2) the number of applicants for a new or renewal license or permit under this Act within the previous calendar year who had a ~~any~~ criminal conviction identified in paragraph (3) of subsection (a) of Section 80;

(3) the number of applicants for a new or renewal license or permit under this Act in the previous calendar year who were granted a license or permit;

(4) the number of applicants for a new or renewal license or permit with a criminal conviction identified in paragraph (3) of subsection (a) of Section 80 who were granted a license or permit under this Act within the previous calendar year;

(5) the number of applicants for a new or renewal license or permit under this Act within the previous calendar year who were denied a license or permit;

(6) the number of applicants for a new or renewal license or permit with a criminal conviction identified in paragraph (3) of subsection (a) of Section 80 who were denied a license or permit under this Act in the previous calendar year in whole or in part because of the ~~a~~ prior conviction;

(7) the number of licenses or permits issued with a condition of ~~on~~ probation without monitoring imposed by the

Commission under this Act in the previous calendar year to applicants with a criminal conviction identified in paragraph (3) of subsection (a) of Section 80; and

(8) the number of licenses or permits issued with a condition of ~~on~~ probation with monitoring imposed by the Commission under this Act in the previous calendar year to applicants with a criminal conviction identified in paragraph (3) of subsection (a) of Section 80.

(Source: P.A. 100-286, eff. 1-1-18.)

Section 99. Effective date. This Act takes effect January 1, 2019.