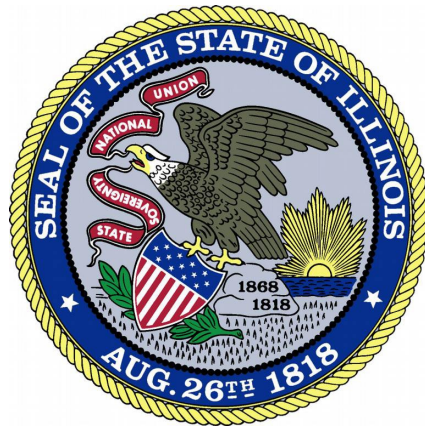


Governor's Office of Management and Budget

Alexis Sturm

Director



Regulatory Sunset Act Report on The Collection Agency Act

April 18, 2025

**To the Honorable JB Pritzker
Governor of Illinois**

Governor Pritzker:

As required by Section 5 of the Regulatory Sunset Act (5 ILCS 80/1 et seq.), GOMB facilitated a study with the Illinois Department of Financial and Professional Regulation (IDFPR), the agency responsible for oversight of the Collection Agency Act (205 ILCS 740/1 et seq.) (the Act), which is scheduled to be repealed on January 1, 2026. This report provides justification for the recommendation to modify the Act.

GOMB's examination of this Act was conducted considering the factors set out in Sections 6 and 7 of the Regulatory Sunset Act. The following report outlines the work of GOMB's study and details the criteria and data utilized to arrive at the above recommendation.

Respectfully,

Alexis Sturm
Director
Governor's Office of Management and Budget

GOMB Regulatory Sunset Act Report: The Collection Agency Act

The State of Illinois, acting through the Illinois Department of Financial and Professional Regulation (IDFPR or the Department), licenses debt collection agencies pursuant to the Act. The Act mandates Illinois oversight of over 900 companies licensed as collection agencies. Department oversight is necessary because collection agencies engage in frequent, difficult interactions with consumers related to individuals' financial obligations. Collection agencies are responsible for managing consumer liabilities. Bad practices or errors can cause severe consumer harms.

The Act states that “[t]he practice as a collection agency by any entity in the State of Illinois is hereby declared to affect the public health, safety and welfare and to be subject to regulation and control in the public interest. It is further declared to be a matter of public interest and concern that the collection agency profession merit and receive the confidence of the public and that only qualified entities be permitted to practice as a collection agency in the State of Illinois... It is further declared to be the public policy of this State to protect consumers against debt collection abuse.” .205 ILCS 740/1a.

Debt collection abuse can cause significant hardship to financially vulnerable consumers. Debt collectors violate the Fair Debt Collection Practices Act (FDCPA) (15 U.S.C. §§ 1692–1692p) when they harass, oppress, or abuse consumers.

1. License Count and Fee Structure

As of March 30, 2024, IDFPR states that there are currently 1,300 active licenses under this Act in Illinois. See the following table for the number of licenses issued by IDFPR in the fiscal years indicated:

License Type	FY20	FY21	FY22	FY23	FY24
Licensed Collection Agency	114	116	109	149	114

The following table displays the licensure fee structure under the Act:

License Type:	Fee Amount	Online Payment
License	\$750 for company \$250 for branch	Yes
License Renewal	\$750 for company \$150 for branch	Yes
License Renewal (as of FY25)	\$250 for company \$50 for branch	Yes

Administrative rule amendments effective July 1, 2024, lowered the company and branch fees for licensure under the Act.

2. Obtaining Licensure under the Act in Illinois

Qualifications for Licensure

To receive a license, a collection agency applicant must submit an online application for licensure. The application includes questions about licensure in other states, ownership of the company, personal

history of the owners, required bonds, required trust accounts, and the financial position of the company. The Department also requests a business plan and may ask additional questions that arise after initial review. The Department reviews the applicant's business history and their plans for Illinois operations. The Department reviews the owners of the applicant to determine that they are at least 18 years of age and have an acceptable credit rating. The Department uses all the documents received as well as its own online research into the applicant company's background to determine whether the applicant's owners and officers have the financial responsibility, financial condition, business experience, character, and general fitness necessary for the public to trust that the applicant will operate the collection agency lawfully and fairly. There are no testing requirements for this license.

Section 7 of the Act (205 ILCS 740/7) addresses those criteria that applicants must demonstrate for licensure under the Act:

In order to be qualified to obtain a license or a renewal license under this Act, a collection agency's owners or officers shall:

- a. have the financial responsibility, financial condition, business experience, character, and general fitness such as to merit the confidence and trust of the public that an applicant, licensee, or regulated person is fit, willing, and able to carry on his or her proposed business in a lawful and fair manner;
- b. be 18 years of age or more; and
- c. have an acceptable credit rating, have no unsatisfied judgments; and not have been officers and owners of 10% or more interest of a former licensee under this Act whose license was suspended or revoked without subsequent restoration.

3. Equity Concerns

Individuals do not typically enter the regulated field. The Act governs the licensure of business entities such as corporations. However, some equity issues may impact the ability of individuals to create companies that would enter into this regulated field. The equity issues are more applicable at the company incorporation stage rather than at the licensure stage. Company incorporation is not governed by the Collection Agency Act.

The Department adds that if a collection agency's owners or officers have had criminal justice interactions or if they speak English as a second language, it may be difficult for the agency to obtain licensure.

4. Agency recommendations to change the statute

The Department has sufficient flexibility within the existing character and fitness requirements for licensure to protect the public from bad actors. As with any business, it is possible for a regulated entity to develop bad practices post-licensure. The Department's ability to protect the public would be improved if the Department had authority and funding to examine licensees under specified circumstances. The Department recommends the Act be amended to permit the Department to examine licensees under specified circumstances.

The Department proposes the following amendatory recommendations to the Act, including:

1. Clarify exemptions from the Act;
2. Clarify Department examination authority, including conducting periodic examinations of licensees when specified circumstances warrant additional oversight;

3. Sunset the Collection Agency Licensing and Disciplinary Board;
4. Clarify Department authority to fine/suspend/revoke licenses for violations of federal law (for example, the Fair Debt Collection Practices Act, the Fair Credit Reporting Act, the Electronic Funds Transfer Act, etc.).

5. Agency efforts to comply with enabling laws

At the time of this report, GOMB is not aware of any compliance issues by IDFPR related to the provisions of the Act.

6. Recent bills introduced by the General Assembly

N/A

7. Stakeholder Feedback and Protocols for Licensure

Since the Department's Division of Financial Institutions became responsible for collection agency licensure on January 1, 2023, the Department has only solicited public comment regarding its amended rules. The Department solicited public comment by publishing the proposed amendments in the Illinois Register. The Division also solicited and incorporated feedback from members of the Collection Agency Licensing and Disciplinary Board, which includes a consumer advocate public member and industry representatives, prior to filing the rules. The Department also noted the filing of such rules to consumer advocacy groups.

8. Public Outreach

The activities of the collection agency industry frequently cause challenges to the public. Common problems include contacting debtors with a frequency that feels harassing, failure to effectively manage and account for payments and payment arrangements, inaccurate credit reporting, collection of accounts that are originated through identify fraud, attempts to collect stale debts, attempts to collect debts that have already been repaid, and collection of accounts by debt buyers without good documentation from original creditors.

Debt collection complaints are the second most common complaint type received by the Consumer Financial Protection Bureau. Consumer debt and collections were also in the top 3 categories of complaints received by the Illinois Attorney General in 2023.

9. Industry Standards

IDFPR states that the qualifications of the collection agency's owners or officers are sufficiently broadly stated to include general character and fitness, which gives the Department sufficient flexibility to protect the public from problematic applicants entering the industry. Character and fitness requirements are common standards used to measure the qualifications of businesses for licensure in various industries.

10. Public Complaint Resolution

The public may file a complaint with the Complaint Intake Unit of IDFPR through the following link:
<https://idfpr.illinois.gov/admin/dpr/dprcomplaint.html>.

IDFPR states that complaints help to identify and discipline licensees for problematic patterns, including charging of fees not contracted for, excessive debiting of accounts, and using threats or false representations to collect. The estimated time for the Department to resolve a complaint under this Act is approximately 1-2 months. The table below outlines the number of complaints received from the public by the Department over the last five years:

Fiscal Year	Number of Complaints
FY20	25
FY21	44
FY22	32
FY23	29
FY24	32

11. Disciplinary Action

The Act provides for disciplinary action against licensees if problems arise in their practice, during the provision of their services, or for other specified events. In particular, the Act provides that “[t]he Department may refuse to issue or renew, or may revoke, suspend, place on probation, reprimand or take other disciplinary or non-disciplinary action as the Department may deem proper, including fines not to exceed \$10,000 per violation [for any one or combination of thirty-five identified acts].” 205 ILCS 740/9.

12. Conclusion

The Act regulates the practices of collection agencies in the State of Illinois. The absence of licensing criteria for these regulated professions would pose a significant and direct harm to the safety and welfare of the public. The lack of regulation would eliminate protections for consumers and businesses from unscrupulous and unlicensed actors. Violations of the law by licensed companies may hurt consumers and businesses.

Current evidence does not suggest that the imposition of the State’s regulatory standards is such a burden as to outweigh the benefits to the health, safety, and welfare of the people of Illinois in continuing the licensure and regulation under this Act. Consequently, the Act is necessary and appropriate to ensure the health, safety, and welfare of the people of Illinois.

The Act should be continued with modification to promote and enhance the safety and welfare of the public, without burdening licensees or commerce.