
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. **375** Session of
1961

INTRODUCED BY MESSRS. STIEFEL, MAHADY AND MURRAY,
MARCH 7, 1961.

REFERRED TO COMMITTEE ON BANKING, MARCH 7, 1961.

AN ACT

Relating to collection agencies providing for and regulating the licens-
ing of collection agencies and collectors granting powers and
imposing duties on the Secretary of Banking prescribing un-
lawful acts and imposing penalties

The General Assembly of the Commonwealth of Pennsylvania
hereby enacts as follows

- 1 Section 1 Short Title This act shall be known and may be cited
2 as the "Collection Agency Law"

EXPLANATION—CAPITAL LETTERS indicate new matter added to bill. Matter stricken through
is to be omitted from bill.
Underscoring indicates new matter added to existing law. [Brackets] indicate matter
stricken from existing law.

1 Section 2 Definitions As used in this act

2 (1) "Secretary" means the Secretary of Banking

3 (2) "Licensee" means a person licensed under this act

4 (3) "Collection agency" means any person engaging in the business
5 of collecting or receiving for payment for others of any account bill
6 or other indebtedness It shall not include attorneys at law authorized
7 to practice in this State and resident herein banks express companies
8 savings and loan associations organized under the laws of Pennsylvania
9 insurance companies and their agents trust companies or professional
10 men's associations collecting accounts for its members on a nonprofit
11 basis where such members are required by law to have a license diploma
12 or permit to practice or follow their profession real estate brokers real
13 estate salesmen and justices of the peace whose principal business is not
14 collections

15 (4) "Collector" or "solicitor" means any person employed by a
16 collection agency to collect or receive payment or to solicit the receiving
17 or collecting of payment for others of any account bill or other indebted-
18 ness outside of the office

19 Section 3 Licenses Required No person shall operate as a collec-
20 tion agency or as a collector or solicitor in this State without first hav-

1 ing obtained a license as required by this act

2 Section 4 Licenses Applications Fees Bond (a) Application for
3 licenses under the provisions of this act shall be made to the secretary
4 in writing under oath on a form to be prescribed by the secretary All
5 licenses shall expire on June thirtieth next following their date of issue

6 (b) At the time of making application every applicant for a col-
7 lection agency license shall pay a fee of one hundred dollars (\$100) to
8 the secretary for investigating the application unless the applicant is
9 already licensed hereunder and the sum of two hundred fifty dollars
10 (\$250) as an annual license fee No investigation fee shall be required
11 on the renewal of a license

12 (c) The license fee for a collector or solicitor shall be two dollars
13 (\$2) The license shall be carried as a means of identification whenever
14 the collector is engaged in business. The license shall state the name of
15 the employer and in case of a change of employer the secretary shall
16 indorse such change on the license without charge

17 Section 5 Licensees to Furnish Bond (a) No collection agency
18 license shall be issued to any applicant under the provisions of this act
19 until such applicant has filed with the secretary an approved bond and
20 a warrant of attorney to confess judgment payable to the Common-

1 wealth of Pennsylvania in the penal amount of ten thousand dollars
2 (\$10,000)

3 (b) Bonds of all such applicants shall have as surety a surety com-
4 pany authorized to do business in this Commonwealth or shall have
5 deposited therewith as collateral security cash or negotiable obligations
6 of the United States of America or the Commonwealth of Pennsylvania
7 in the same amount as herein provided for the penal sum of bonds In
8 all cases where cash or securities in lieu of other surety have been
9 deposited with the secretary the depositor shall be permitted to con-
10 tinue the same deposit from year to year on each renewal of license but
11 in no event shall he be permitted to withdraw his deposit during the
12 time he holds said license or until six months after the expiration of
13 the license held by him or while revocation proceedings are pending
14 against such license All cash or securities received by the secretary in
15 lieu of other surety shall be turned over by the secretary to the State
16 Treasurer and held by him The State Treasurer shall repay or return
17 money or securities deposited with him to the respective depositors only
18 on the order of the secretary

19 (c) No such bond shall be accepted until approved by the secretary
20 All such bonds shall be conditioned for the faithful observance of all

1 the laws of this Commonwealth relating to collection agencies All bonds
2 shall be retained by the secretary

3 (d) Every such bond may be forfeited when a license is revoked
4 and shall be turned over to the Attorney General for collection if and
5 when his license is revoked

6 (e) Every such bond may be forfeited when a license is revoked
7 and shall be turned over to the Attorney General for collection if and
8 when the licensee's license shall have been revoked and his bond for-
9 feited as provided in this act

10 Section 6 Disposition of Cash and Securities Upon Forfeiture of
11 Bond After notice from the secretary that any of the aforesaid bonds
12 have been forfeited the State Treasurer shall immediately pay into
13 the General Fund all cash deposited as collateral with such bond and
14 when securities have been deposited with such bond the State Treasurer
15 shall sell at private sale at not less than the prevailing market price any
16 such securities so deposited as collateral with such forfeited bond The
17 State Treasurer shall thereafter deposit in the General Fund the net
18 amount realized from the sale of such securities except that if the
19 amount so realized after deducting proper costs and expenses is in
20 excess of the penal amount of the bond such excess shall be paid over

1 by him to the obligor on such forfeited bond

2 Section 7 Issuance or Denial of Licenses (a) Upon the filing of
3 the application and bond and the payment of the fee the secretary
4 shall make his investigation and if he finds that the character and general
5 fitness and the financial responsibility of the applicant and the members
6 thereof if the applicant is a partnership or association and the officers
7 and directors thereof if the applicant is a corporation warrant the belief
8 that the business will be operated in compliance with this act the secre-
9 tary shall thereupon issue a license to the applicant The license is not
10 assignable and shall permit operation under it only at or from the
11 location specified in the license A nonresident of this State may upon
12 complying with all other provisions of this act secure a collection agency
13 license provided he maintains an active office in this State

14 (b) No licensee shall conduct a collection agency business within
15 any office room or place of business in which any other business is
16 solicited or engaged in or in association or conjunction therewith except
17 as may be authorized in writing by the Department of Banking upon
18 its finding that the character of the other business is such that the
19 granting of such authority would not facilitate evasion of this act or
20 the lawful rules and regulations issued thereunder

1 Section 8 Revocation Suspension Reinstatement of Licenses (a)

2 The secretary may suspend or revoke any license issued under this act
3 if he finds that (1) the licensee has violated any of the provisions of
4 this act or any lawful order of the secretary made thereunder or (2)
5 any fact or condition exists which if it had existed at the time of the
6 original application for such license would have warranted the secretary
7 in refusing to issue such license or (3) the licensee has failed to pay the
8 annual license fee or to maintain in effect the bond required under
9 section 5 or (4) the licensee has failed to remit money due to any and
10 all claimants or forwarders within thirty days from the close of the
11 month during which the collection was effected

12 (b) No license shall be revoked or suspended except after a hear-
13 ing A complaint stating the grounds for suspension or revocation to-
14 gether with a notice of hearing shall be served on the licensee at least
15 five days in advance of the hearing by registered mail or certified mail
16 return receipt requested

17 (c) In the event of the death of a licensee if the licensee is an
18 individual or of the partners if the licensee is a partnership the license
19 of the agency shall terminate as of the date of death of said licensee
20 except the secretary may reinstate a license if the estate of the former

1 licensee signifies to the secretary within forty-five days its intention to
2 continue the business of the agency

3 Section 9 Appeals Refusal Suspension Revocation Any action of
4 the secretary which results in a refusal to issue a license or which sus-
5 pends or revokes a license shall be taken in accordance with the provi-
6 sions of the act of June 4 1945 (P L 1388) known as the "Administra-
7 tive Agency Law"

8 Section 10 Licenses Posting Changes of Location Renewal (a)
9 When a collection agency contemplates a change of its place of business
10 to another location within the same municipality or township it shall
11 give written notice thereof to the secretary who shall attach to the
12 license his authorization of such removal specifying the date thereof
13 and the new location The authorization shall be authority for the
14 operation of such business under the same license at the specified new
15 location All collection agency licenses shall be conspicuously posted in
16 the office of the licensee

17 (b) Every licensee applying for a renewal of his license shall on
18 or before the first day of June pay in advance to the secretary the
19 annual license fee

20 (c) Before discontinuing operating as a collection agency under

1 the provisions of this act every licensee shall furnish the secretary
2 with proof in a form to be determined by the secretary that

3 (1) Proper remittance has been made to all claimants or forwarders
4 on money collected

5 (2) All accounts have been returned to the claimants or forwarders

6 (3) All valuable papers given to the licensee by the claimant or
7 forwarder in connection with claims have been returned to the claim-
8 ants or forwarders

9 Section 11 Powers of Secretary It shall be the duty of the secre-
10 tary and he shall have power to investigate the conditions and ascertain
11 the facts with reference to the collection of accounts and upon the
12 basis thereof

13 (1) For the purpose of discovering violations of this act the secre-
14 tary may cause an investigation to be made of the business of the
15 licensee transacted under the provisions of this act and shall cause an
16 investigation to be made of convictions reported to him by any district
17 attorney for violation by a licensee of any of the provisions of this
18 act The place of business books of accounts papers records safes and
19 vaults of said licensee shall be open to inspection and examination by
20 the secretary or his representative for the purpose of such investigation

1 and the secretary shall have authority to examine under oath all persons
2 whose testimony he may require relative to said investigation The cost
3 of the first investigation or examination during any licensing year shall
4 be paid by the licensee but the cost of additional investigation or
5 examination during such year shall be paid by the licensee only if such
6 examination discloses violation of clause (4) of subsection (a) of sec-
7 tion 8 of this act The cost shall be determined by prorating the
8 amount of salaries and expenses of all examiners employes and other
9 persons engaged in examining licensees under this act if any and any
10 other expenses which may be attributable thereto The licensee shall
11 pay the cost of any hearing including witness fees unless the secretary
12 or court finds that licensee has not violated any provision of this act
13 All costs shall be paid by the licensee within thirty days after demand
14 therefor by the secretary The State may maintain an action for the
15 recovery of such costs and expenses in any court of competent juris-
16 diction

17 (2) To appoint advisers from the individuals engaged in the col-
18 lection business in the State and in any locality which advisers shall
19 be consulted by and shall assist the secretary in the execution of his
20 duties under the provisions of this act Such persons shall receive no

1 compensation for their services but may be reimbursed for their actual
2 and necessary traveling expenses not to exceed fifteen dollars (\$15)
3 per day

4 (3) To make all necessary or proper orders rules and regulations
5 for the administration and enforcement of this act and to protect
6 the public from oppressive or deceptive practices of licensee

7 Section 12 Delinquent Collection Agencies Secretary May Take
8 Possession (a) If the secretary finds that a licensee is insolvent or
9 that he has collected accounts but has failed to remit money due to
10 any claimant or forwarder within thirty days from the end of the
11 month in which collection was made and it is necessary to protect the
12 interest of the public or when the license of a collection agency has
13 expired or has terminated for any reason whatsoever he may take pos-
14 session of the assets and the books and records of the licensee for the
15 purpose of liquidating its business and for such other relief as the
16 nature of the case and the interest of the claimants or forwarders
17 may require The liquidation of business shall be made by and under
18 the supervision of the secretary either in the name of the secretary or
19 in the name of the licensee and the secretary shall be vested with title
20 to all of the assets including the proceeds of the bond or bonds which

1 have been filed with the secretary as provided for under section 5 and
2 the proceeds of any and all money paid direct to the claimant or
3 forwarder by the debtor prior to the date said license has terminated
4 Money paid to the licensee or to the secretary after the termination
5 of the license shall be disposed of by the secretary with the approval
6 of the court of common pleas of the county wherein the main office
7 of the licensee is located

8 (b) In taking possession of the property and business of any such
9 collection agency the secretary shall forthwith give notice to any and
10 all banks or bank corporations holding or in possession of any bank
11 balances or assets of such agency and thereafter such assets shall be
12 held subject to the order of the secretary

13 (c) In addition to the authority conferred by subsection (b) of
14 this section the secretary may with the approval of the court of com-
15 mon pleas of the county wherein the main office is located for the
16 purposes of collection or liquidation sell assign convey and transfer
17 or approve the sale assignment conveyance and transfer of the assets
18 of such collection agency under such terms and conditions as the
19 secretary may deem for the best interests of the claimants of such
20 collection agency

1 (d) The secretary shall cause notice to be given by advertisement
2 if no action has been commenced as provided under subsection (f) of
3 this section in such newspapers as he may direct weekly for four con-
4 secutive weeks calling on all persons who may have claims against
5 such licensee to present the same to the secretary and make legal
6 proof thereof at a place and within a time to be therein specified
7 The secretary may mail a similar notice to all persons whose names
8 appear as claimants or forwarders upon the books and records of the
9 licensee or as may appear in the records of the secretary on the sworn
10 reports required to be furnished the secretary according to the pro-
11 visions of section 13 Any claimant or forwarder whose portion of the
12 collection or collections has not been properly remitted shall file a
13 claim which shall be considered as a preferred claim for the amount
14 actually due the claimant or forwarder after deducting any commission
15 or fee that may be due and owing the licensee If the secretary doubts
16 the justice and validity of any claim he may reject the same and
17 serve notice of such rejection upon the claimant either by mail or
18 personally An affidavit of the service of such notice which shall be
19 prima facie evidence thereof shall be filed with the secretary An
20 action upon a claim so rejected must be brought in the court of com-

1 mon pleas in the county wherein the licensee is located within thirty
2 days after such service of such notice of rejection of claim has been
3 filed Claims presented after the expiration of the time fixed in the
4 notice to the claimants or forwarders shall be entitled to receive only
5 liquidating dividends declared after presentation unless otherwise or-
6 dered by the court The court may fix a date after which all claims
7 shall be barred

8 (e) Whenever any agency of whose assets and business the secre-
9 tary has taken possession as aforesaid deems itself aggrieved thereby
10 it may at any time within ten days after such taking possession apply
11 to the court of common pleas in the county in which the main office
12 of the agency is located to enjoin further proceedings and the court
13 after citing the secretary to show cause why further proceedings should
14 not be enjoined and hearing the allegations and proofs of the parties
15 and determining the facts may upon the merits dismiss the application
16 or enjoin the secretary from further proceedings and direct him to
17 surrender such business and property to the agency

18 (f) Whenever the secretary has paid to each and every claimant
19 or forwarder of such collection agency whose claims as such claimant
20 or forwarder have been duly proved and allowed the full amount of

1 such claims and has made proper provisions for unclaimed and unpaid
2 collections and has paid all the expenses of the liquidation he shall
3 liquidate the remaining assets exclusive of the proceeds of the bond
4 or bonds for the benefit of the general creditors or if no claims have
5 been filed by or in behalf of the general creditors the secretary shall
6 turn over the remaining assets to the court for further disposition

7 (g) All accounts and valuable papers given to the agency by the
8 claimant or forwarder in possession of the secretary pertaining to
9 accounts placed with the agency for collection shall be returned to
10 the claimant or forwarded by the secretary within thirty days after
11 verification of the claim has been made

12 Section 13 Annual Reports Records (a) Each licensee shall an-
13 nually on or before the fifteenth day of March file a report with the
14 secretary giving such reasonable and relevant information as the sec-
15 retary may require concerning the business and operations conducted
16 by such licensee within the State The report shall be made under oath
17 and shall be in the form prescribed by the secretary

18 (b) The secretary shall require the licensee to keep such books
19 and records in his place of business as will enable the secretary to
20 determine whether the provisions of this act are being complied with

1 Every licensee shall preserve the records of final entry used in such
2 business for a period of at least six years after final remittance is
3 made on any account placed with the licensee for collection or after
4 any account has been returned to the claimant on which one or more
5 payments have been paid

6 Section 14 Subterfuge The provisions of this act shall apply to
7 any licensee or other person who by any device subterfuge or pretense
8 whatever shall make a pretended purchase or a pretended assignment
9 of accounts from any other person for the purpose of evading the
10 provisions of this act

11 Section 15 Penalties (a) Any person violating any of the provis-
12 ions of this act is guilty of a misdemeanor and for each offense upon
13 conviction thereof shall be sentenced to pay a fine not exceeding one
14 thousand dollars (\$1,000) or undergo imprisonment for not more than
15 one year or both

16 (b) The right of the secretary to suspend and revoke licenses
17 issued under this act shall be in addition to penalties set forth in this
18 section

We certify that this bill has passed the Senate and the House of Representatives.

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Chief Clerk, Senate

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President pro tempore, Senate

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Speaker, House of Representatives

Approved The day of A. D. 1961.

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Governor