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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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**SENATE BILL**

No. **375** Session of  
1961

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MESSRS. STIEFEL, MAHADY AND MURRAY, IN PLACE,  
MARCH 7, 1961.

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MR. MAHADY, RE-REPORTED FROM BANKING, AS AMENDED,  
JUNE 14, 1961.

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**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"

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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 OR PERSONS DESIGNATED BY A PUBLIC UTILITY  
15 TO ACCEPT BUT NOT SOLICIT PAYMENTS OF UTILITY BILLS  
16 AT THEIR PLACES OF BUSINESS AS A CONVENIENCE TO  
17 THE PUBLIC UTILITY'S PATRONS

18 (4) "Collector" or "solicitor" means any person employed by a  
19 collection agency to collect or receive payment or to solicit the receiving

1 or collecting of payment for others of any account bill or other indebted-  
2 ness outside of the office

3 Section 3 Licenses Required No person shall operate as a collec-  
4 tion agency or as a collector or solicitor in this State without first hav-  
5 ing obtained a license as required by this act

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

10 (b) At the time of making application every applicant for a col-  
11 lection agency license shall pay a fee of ~~one hundred dollars (\$100)~~  
12 TWENTY FIVE DOLLARS (\$25) to the secretary for investigating  
13 the application unless the applicant is already licensed hereunder and  
14 the sum of ~~two hundred fifty dollars (\$250)~~ TWENTY FIVE DOL-  
15 LARS (\$25) as an annual license fee No investigation fee shall be re-  
16 quired on the renewal of a license

17 (c) The license fee for a collector or solicitor shall be two dollars  
18 (\$2) The license shall be carried as a means of identification whenever  
19 the collector is engaged in business. The license shall state the name of

1 the employer and in case of a change of employer the secretary shall  
2 indorse such change on the license without charge

3 Section 5 Licensees to Furnish Bond (a) No collection agency  
4 license shall be issued to any applicant under the provisions of this act  
5 until such applicant has filed with the secretary an approved bond and  
6 a warrant of attorney to confess judgment payable to the Common-  
7 wealth of Pennsylvania in the penal amount of ten thousand dollars  
8 (\$10,000)

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

1 lieu of other surety shall be turned over by the secretary to the State  
2 Treasurer and held by him The State Treasurer shall repay or return  
3 money or securities deposited with him to the respective depositors only  
4 on the order of the secretary

5 (c) No such bond shall be accepted until approved by the secretary  
6 All such bonds shall be conditioned for the faithful observance of all  
7 the laws of this Commonwealth relating to collection agencies All bonds  
8 shall be retained by the secretary

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

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

16 Section 6 Disposition of Cash and Securities Upon Forfeiture of  
17 Bond After notice from the secretary that any of the aforesaid bonds  
18 have been forfeited the State Treasurer shall immediately pay into  
19 the General Fund all cash deposited as collateral with such bond and

1 when securities have been deposited with such bond the State Treasurer  
2 shall sell at private sale at not less than the prevailing market price any  
3 such securities so deposited as collateral with such forfeited bond The  
4 State Treasurer shall thereafter deposit in the General Fund the net  
5 amount realized from the sale of such securities except that if the  
6 amount so realized after deducting proper costs and expenses is in  
7 excess of the penal amount of the bond such excess shall be paid over  
8 by him to the obligor on such forfeited bond

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

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

8 Section 8 Revocation Suspension Reinstatement of Licenses (a)

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

19 (b) No license shall be revoked or suspended except after a hear-  
20 ing A complaint stating the grounds for suspension or revocation to-

1 gether with a notice of hearing shall be served on the licensee at least  
2 five days in advance of the hearing by registered mail or certified mail  
3 return receipt requested

4 (c) In the event of the death of a licensee if the licensee is an  
5 individual or of the partners if the licensee is a partnership the license  
6 of the agency shall terminate as of the date of death of said licensee  
7 except the secretary may reinstate a license if the estate of the former  
8 licensee signifies to the secretary within forty-five days its intention to  
9 continue the business of the agency

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

15 Section 10 Licenses Posting Changes of Location Renewal (a)  
16 When a collection agency contemplates a change of its place of business  
17 to another location within the same municipality or township it shall  
18 give written notice thereof to the secretary who shall attach to the  
19 license his authorization of such removal specifying the date thereof

1 and the new location The authorization shall be authority for the  
2 operation of such business under the same license at the specified new  
3 location All collection agency licenses shall be conspicuously posted in  
4 the office of the licensee

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

8 (c) Before discontinuing operating as a collection agency under  
9 the provisions of this act every licensee shall furnish the secretary  
10 with proof in a form to be determined by the secretary that

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

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

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

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

1. (1) For the purpose of discovering violations of this act the secre-  
2. tary may cause an investigation to be made of the business of the  
3. licensee transacted under the provisions of this act and shall cause an  
4. investigation to be made of convictions reported to him by any district  
5. attorney for violation by a licensee of any of the provisions of this  
6. act. The place of business books of accounts papers records safes and  
7. vaults of said licensee shall be open to inspection and examination by  
8. the secretary or his representative for the purpose of such investigation  
9. and the secretary shall have authority to examine under oath all persons  
10. whose testimony he may require relative to said investigation. The cost  
11. of the first investigation or examination during any licensing year shall  
12. be paid by the licensee but the cost of additional investigation or  
13. examination during such year shall be paid by the licensee only if such  
14. examination discloses violation of clause (4) of subsection (a) of sec-  
15. tion 8 of this act. The cost shall be determined by prorating the  
16. amount of salaries and expenses of all examiners employes and other  
17. persons engaged in examining licensees under this act if any and any  
18. other expenses which may be attributable thereto. The licensee shall  
19. pay the cost of any hearing including witness fees unless the secretary

1 or court finds that licensee has not violated any provision of this act  
2 All costs shall be paid by the licensee within thirty days after demand  
3 therefor by the secretary The State may maintain an action for the  
4 recovery of such costs and expenses in any court of competent juris-  
5 diction

6 (2) To appoint advisers from the individuals engaged in the col-  
7 lection business in the State and in any locality which advisers shall  
8 be consulted by and shall assist the secretary in the execution of his  
9 duties under the provisions of this act Such persons shall receive no  
10 compensation for their services but may be reimbursed for their actual  
11 and necessary traveling expenses not to exceed fifteen dollars (\$15)  
12 per day

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

16 Section 12 Delinquent Collection Agencies Secretary May Take  
17 Possession (a) If the secretary finds that a licensee is insolvent or  
18 that he has collected accounts but has failed to remit money due to  
19 any claimant or forwarder within thirty days from the end of the  
20 month in which collection was made and it is necessary to protect the

1 interest of the public or when the license of a collection agency has  
2 expired or has terminated for any reason whatsoever he may take pos-  
3 session of the assets and the books and records of the licensee for the  
4 purpose of liquidating its business and for such other relief as the  
5 nature of the case and the interest of the claimants or forwarders  
6 may require The liquidation of business shall be made by and under  
7 the supervision of the secretary either in the name of the secretary or  
8 in the name of the licensee and the secretary shall be vested with title  
9 to all of the assets including the proceeds of the bond or bonds which  
10 have been filed with the secretary as provided for under section 5 and  
11 the proceeds of any and all money paid direct to the claimant or  
12 forwarder by the debtor prior to the date said license has terminated  
13 Money paid to the licensee or to the secretary after the termination  
14 of the license shall be disposed of by the secretary with the approval  
15 of the court of common pleas of the county wherein the main office  
16 of the licensee is located

17 (b) In taking possession of the property and business of any such  
18 collection agency the secretary shall forthwith give notice to any and  
19 all banks or bank corporations holding or in possession of any bank

1 balances or assets of such agency and thereafter such assets shall be  
2 held subject to the order of the secretary

3 (c) In addition to the authority conferred by subsection (b) of  
4 this section the secretary may with the approval of the court of com-  
5 mon pleas of the county wherein the main office is located for the  
6 purposes of collection or liquidation sell assign convey and transfer  
7 or approve the sale assignment conveyance and transfer of the assets  
8 of such collection agency under such terms and conditions as the  
9 secretary may deem for the best interests of the claimants of such  
10 collection agency

11 (d) The secretary shall cause notice to be given by advertisement  
12 if no action has been commenced as provided under subsection (f) of  
13 this section in such newspapers as he may direct weekly for four con-  
14 secutive weeks calling on all persons who may have claims against  
15 such licensee to present the same to the secretary and make legal  
16 proof thereof at a place and within a time to be therein specified  
17 The secretary may mail a similar notice to all persons whose names  
18 appear as claimants or forwarders upon the books and records of the  
19 licensee or as may appear in the records of the secretary on the sworn  
20 reports required to be furnished the secretary according to the pro-

1 visions of section 13 Any claimant or forwarder whose portion of the  
2 collection or collections has not been properly remitted shall file a  
3 claim which shall be considered as a preferred claim for the amount  
4 actually due the claimant or forwarder after deducting any commission  
5 or fee that may be due and owing the licensee If the secretary doubts  
6 the justice and validity of any claim he may reject the same and  
7 serve notice of such rejection upon the claimant either by mail or  
8 personally An affidavit of the service of such notice which shall be  
9 prima facie evidence thereof shall be filed with the secretary An  
10 action upon a claim so rejected must be brought in the court of com-  
11 mon pleas in the county wherein the licensee is located within thirty  
12 days after such service of such notice of rejection of claim has been  
13 filed Claims presented after the expiration of the time fixed in the  
14 notice to the claimants or forwarders shall be entitled to receive only  
15 liquidating dividends declared after presentation unless otherwise or-  
16 dered by the court The court may fix a date after which all claims  
17 shall be barred

18 (e) Whenever any agency of whose assets and business the secre-  
19 tary has taken possession as aforesaid deems itself aggrieved thereby

1 it may at any time within ten days after such taking possession apply  
2 to the court of common pleas in the county in which the main office  
3 of the agency is located to enjoin further proceedings and the court  
4 after citing the secretary to show cause why further proceedings should  
5 not be enjoined and hearing the allegations and proofs of the parties  
6 and determining the facts may upon the merits dismiss the application  
7 or enjoin the secretary from further proceedings and direct him to  
8 surrender such business and property to the agency

9 (f) Whenever the secretary has paid to each and every claimant  
10 or forwarder of such collection agency whose claims as such claimant  
11 or forwarder have been duly proved and allowed the full amount of  
12 such claims and has made proper provisions for unclaimed and unpaid  
13 collections and has paid all the expenses of the liquidation he shall  
14 liquidate the remaining assets exclusive of the proceeds of the bond  
15 or bonds for the benefit of the general creditors or if no claims have  
16 been filed by or in behalf of the general creditors the secretary shall  
17 turn over the remaining assets to the court for further disposition

18 (g) All accounts and valuable papers given to the agency by the  
19 claimant or forwarder in possession of the secretary pertaining to

1 accounts placed with the agency for collection shall be returned to  
2 the claimant or forwarded by the secretary within thirty days after  
3 verification of the claim has been made

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

10 (b) The secretary shall require the licensee to keep such books  
11 and records in his place of business as will enable the secretary to  
12 determine whether the provisions of this act are being complied with  
13 Every licensee shall preserve the records of final entry used in such  
14 business for a period of at least six years after final remittance is  
15 made on any account placed with the licensee for collection or after  
16 any account has been returned to the claimant on which one or more  
17 payments have been paid

18 Section 14 Subterfuge The provisions of this act shall apply to  
19 any licensee or other person who by any device subterfuge or pretense  
20 whatever shall make a pretended purchase or a pretended assignment

1 of accounts from any other person for the purpose of evading the  
2 provisions of this act

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

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

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

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Chief Clerk, Senate

.....  
President pro tempore, Senate

.....  
Speaker, House of Representatives

Approved The ..... day of ..... A. D. 1961.

.....  
Governor