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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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AS AMENDED ON SECOND READING, AUGUST 1, 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 Legislative Findings The General Assembly finds that it
- 2 is in the public interest and for the public welfare to regulate collection

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 agencies in this Commonwealth by providing for their licensing and  
2 supervision in order to protect the public from abuses which may arise  
3 from the activities of such agencies while at the same time securing  
4 the benefit to our economy of such activities when undertaken by repu-  
5 table agencies

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

8 Section 3 Definitions As used in this act

9 (a) "Secretary" means the Secretary of Banking

10 (b) "Licensee" means a person licensed under this act

11 (c) "Collection agency" means any person engaging in the  
12 business of collecting or receiving for payment for others of any ac-  
13 count bill or other indebtedness It shall not include attorneys at law  
14 admitted to practice in this or any other state banks express companies  
15 savings and loan associations organized under the laws of Pennsylvania  
16 or of the United States insurance companies and their agents trust com-  
17 panies real estate brokers real estate salesmen justices of the peace  
18 less than fifty percent of whose gross income from his activities as  
19 such is from the business of collections or persons designated by a

1 public utility to accept but not solicit payments of utility bills at their  
2 places of business as a convenience to the public utility's patrons

3 (d) "Collector" or "solicitor" means any person employed by a  
4 collection agency to collect or receive payment or to solicit the receiving  
5 or collecting of payment for others of any account bill or other indebted-  
6 ness outside of the office.

7 (e) "Person" means any individual partnership association or cor-  
8 poration

9 (f) "Claimant or forwarder" means any person who has placed  
10 an account bill or other indebtedness with a collection agency for the  
11 purpose of collecting or receiving payment thereon

12 Section 4 Licenses No person shall operate as a collection agency  
13 in this State without first having obtained a license from the  
14 secretary A person operating more than one place of business as a col-  
15 lection agency shall obtain a separate license for each such place of  
16 business

17 Section 5 License Application and Fees (a) Application for a  
18 license or renewal thereof under the provisions of this act shall be made  
19 to the secretary in writing under oath on a form to be prescribed by the

1 secretary All licenses shall be issued for a period of two years and shall  
2 expire on June thirtieth biennially

3 (b) At the time of making his initial application every appli-  
4 cant for a collection agency license shall pay a fee of twenty-five dollars  
5 (\$25) to the secretary for investigating the application he also shall  
6 pay the sum of two hundred dollars (\$200) as a biennial license fee  
7 No investigation fee shall be required on the renewal of a license

8 (c) Every application shall list the name or names of any person  
9 or persons employed by the applicant as a collector or solicitor and  
10 for every such name so listed the applicant shall pay an additional  
11 biennial fee of four dollars (\$4) every collector or solicitor so listed  
12 shall be issued an identification license which he shall carry with him  
13 at all times he is engaged in the business or his employer any collector  
14 or solicitor employed or who terminates his employment while a license  
15 is in effect shall be added or subtracted from the application by notice  
16 from the agency to the secretary The license shall state the name  
17 of the employer and in case of a change of employer the secretary  
18 shall indorse such change on the license without charge

19 Section (4) 6 Bond (a) No collection agency license shall be  
20 issued to any applicant under the provisions of this act until such

1 applicant has filed with the secretary an approved bond and a warrant  
2 of attorney to confess judgment payable to the Commonwealth of  
3 Pennsylvania for the benefit of claimants or forwarders of the ap-  
4 plicant AND DEBTORS WHO HAVE MADE PAYMENTS TO  
5 THE APPLICANT in the principal sum of five thousand dollars (\$5000)

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

1 spective depositors only on the order of the secretary

2 (c) No such bond shall be accepted until approved by the secretary

3 All such bonds shall be conditioned upon the obligors at all times  
4 operating as a collection agency in accordance with the provisions  
5 of this act All bonds shall be retained by the secretary

6 (d) 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 his license is revoked

9 (e) After notice from the secretary that any of the aforesaid bonds  
10 have been forfeited the State Treasurer shall immediately pay into  
11 the General Fund all cash deposited as collateral with such bond and  
12 when securities have been deposited with such bond the State Treasurer  
13 shall sell at private sale at not less than the prevailing market price any  
14 such securities so deposited as collateral with such forfeited bond The  
15 State Treasurer shall thereafter turn over to the secretary the net  
16 proceeds from such sale and all cash similarly deposited as collateral  
17 with such bond the secretary shall apply such proceeds and cash for  
18 the benefit of the claimants or forwarders of the obligor AND THE  
19 DEBTORS WHO HAVE MADE PAYMENTS TO THE OBLIGOR

1 and any excess shall be paid over by him to the obligor on such forfeited  
2 bond

3 (f) In the event that any applicant maintains more than one place  
4 of business in this Commonwealth a separate bond in the principal sum  
5 of five thousand dollars (\$5000) shall be filed for each such place of  
6 business

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

19 Section 8 Revocation Suspension Reinstatement of Licenses (a)  
20 The secretary may suspend or revoke any license issued under this act

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

11 (b) No license shall be revoked or suspended except after a hear-  
12 ing A complaint by the secretary stating in detail the grounds for  
13 suspension or revocation together with a notice of hearing shall be  
14 served on the licensee at least twenty days in advance of the hear-  
15 ing by registered mail or certified mail return receipt requested in  
16 no event shall a complaint be issued more than three years after the  
17 act or failure to act on which the grounds for suspension or revoca-  
18 tion are based

19 (c) In the event of the death of a licensee if the licensee is an  
20 individual or of the partners if the licensee is a partnership the license

1 of the agency shall terminate as of the date of death of said licensee  
2 except the secretary may reinstate a license if the estate of the former  
3 licensee signifies to the secretary within forty-five days its intention to  
4 continue the business of the agency

5 Section 9 Administrative Agency Law to apply all the provisions  
6 of the act of June 4 1945 (P L 1388) the "Administrative Agency  
7 Law" shall apply to actions or proceedings taken or had under or as  
8 a result of this act

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

18 (b) Before discontinuing operating as a collection agency under  
19 the provisions of this act every licensee shall furnish the secretary  
20 with proof in a form to be determined by the secretary that

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

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

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

7 Section 11 Powers and Duties of Secretary The secretary shall  
8 have the following powers and duties with respect to the operation  
9 of any licensees

10 (1) For the purpose of discovering violations of this act the secre-  
11 tary may cause an investigation to be made of the business of the  
12 licensee transacted under the provisions of this act and shall cause an  
13 investigation to be made of convictions reported to him by any district  
14 attorney for violation by a licensee of any of the provisions of the  
15 act of June 24 1939 (P. L. 872) known as "The Penal Code" relating  
16 to collection agency practices The place of business books of ac-  
17 counts papers records safes and vaults of said licensee shall be open  
18 to inspection and examination by the secretary or his representa-  
19 tive for the purpose of such investigation and the secretary shall have

1 authority to examine under oath all persons whose testimony he may  
2 require relative to said investigation

3 (2) For the purpose of assisting and advising the secretary in  
4 the carrying out of his duties and exercising of his powers under this  
5 act the secretary shall appoint six persons residing in the Common-  
6 wealth who together with the secretary shall constitute the collec-  
7 tion agency board two each of the members of the board shall be  
8 appointed from the following organizations which shall submit to  
9 the secretary for such purpose lists of names from which the appoint-  
10 ments shall be made Pennsylvania Collectors Association Inc Com-  
11 mercial Law League of America and Associated Credit Bureaus of  
12 Pennsylvania Inc The first members appointed by the secretary shall  
13 serve for terms of one two three four five and six years respectively  
14 thereafter all terms shall be for six years the appointed members shall  
15 serve without compensation but shall be reimbursed for all expenses  
16 actually incurred by them in connection with their service on the board  
17 not in excess of thirty dollars (\$30) per day meetings of the board  
18 shall be called by the secretary at least bimonthly

19 The secretary shall make and promulgate all rules regulations  
20 and orders necessary to carry out his powers and duties under this

1 act but he shall have no power to make or issue any rule regulation  
2 or order establishing or regulating the rates or fees charged by any  
3 collection agency or advertising practices and procedures carried on  
4 by any collection agency

5 Section 12 Delinquent Collection Agencies Secretary May Take  
6 Possession (a) If the secretary finds that a licensee is insolvent or  
7 that he has collected accounts but has failed to remit money due to  
8 any claimant or forwarder within thirty days from the end of the  
9 month in which collection was made or at such time as has been agreed  
10 upon in writing by the licensee any claimant or forwarder or if the  
11 license of a collection agency has expired or has terminated and the  
12 licensee has not within three months thereafter liquidated his collection  
13 agency business and paid all claimants or forwarders for whom he  
14 collected accounts and received payment thereon he may take pos-  
15 session of the assets and the books and records of the licensee for the  
16 purpose of liquidating its business and for such other relief as the  
17 nature of the case and the interest of the claimants or forwarders  
18 may require The liquidation of business shall be made by and under  
19 the supervision of the secretary either in the name of the secretary  
20 or in the name of the licensee and the secretary shall be vested with

1 title to all of the assets including the proceeds of the bond or bonds  
2 which have been filed with the secretary as provided for under section 6  
3 and including money paid to the licensee or to the secretary after  
4 possession is taken by the secretary

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

10 (c) In addition to the authority conferred by subsection (b) of  
11 this section the secretary may for the purpose of collection or liquida-  
12 tion sell assign convey and transfer or approve the sale assignment  
13 conveyance and transfer of the assets of such collection agency under  
14 such terms and conditions as the secretary may deem for the best  
15 interests of the CLAIMANTS or forwarders of such collection agency

16 (d) The secretary shall cause notice to be given by advertisement  
17 if no action has been commenced as provided under subsection (e) of  
18 this section in at least one newspaper of general circulation in the  
19 community in which the place of business of the licensee is located  
20 weekly for four consecutive weeks calling on all persons who may

1 have claims against such licensee to present the same to the secre-  
2 tary and make legal proof thereof at a place and within a time to be  
3 therein specified. The secretary may mail a similar notice to all per-  
4 sons whose names appear as claimants or forwarders upon the books  
5 and records of the licensee or as may appear in the records of the secre-  
6 tary on the sworn reports required to be furnished the secretary accord-  
7 ing to the provisions of section 13. Any claimant or forwarder whose  
8 portion of the collection or collections has not been properly remitted  
9 shall file a claim which shall be considered as a preferred claim to  
10 the claim of any creditor of the licensee for the amount actually due  
11 the claimant or forwarder after deducting any commission or fee  
12 that may be due and owing the licensee. If the secretary doubts the  
13 justice and validity of any claim he may reject the same and serve  
14 notice of such rejection upon the claimant either by registered or certified  
15 mail return receipt requested which return receipt shall be prima  
16 facie evidence of service of said notice. An action upon a claim so re-  
17 jected must be brought in the court of common pleas in the judicial  
18 district wherein the place of business of the licensee is located  
19 within thirty days after such service of such notice of rejection of  
20 claim has been made. Claims presented after the expiration of the

1 time fixed in the notice to the claimants or forwarders shall be entitled  
2 to receive only liquidating dividends declared after presentation un-  
3 less otherwise ordered by the court The court upon petition of the  
4 secretary may fix a date after which all claims shall be barred

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

15 (f) Whenever the secretary has paid to each and every claimant  
16 or forwarder of such collection agency whose claims as such claimant  
17 or forwarder have been duly proved and allowed the full amount of  
18 such claims and has made proper provisions for unclaimed and unpaid  
19 collections and has paid all the expenses of the liquidation he shall  
20 liquidate the remaining assets exclusive of the proceeds of the bond

1 or bonds for the benefit of creditors if no claims have been filed by  
2 or in behalf of the creditors or if after payment of said creditors in  
3 full there remain assets of the agency the secretary shall turn over  
4 the remaining assets to the agency or its owner partners or stockholders

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

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

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

1 business and showing the payments made on any account placed with  
2 the agency for collection for a period of at least six years after final  
3 remittance is made on any such account or after any account has been  
4 returned to the claimant on which one or more payments have been  
5 paid all other records of the business shall be retained by the licensee  
6 for at least two years

7 (c) For the purpose of enabling a licensee to maintain proper  
8 books and records every claimant or forwarder of a collection agency  
9 shall within thirty days after the close of each calendar month report  
10 to his agency any payments received directly by such claimant or for-  
11 warder on accounts placed with the agency for collection and shall  
12 pay or credit the agency all sums owing to it with respect to such  
13 accounts

14 Section 14 Subterfuge The provisions of this act shall apply to  
15 any licensee or other person who by any device subterfuge or pretense  
16 whatever shall make a pretended purchase or a pretended assignment  
17 of accounts from any other person for the purpose of evading the  
18 provisions of this act

19 Section 15 Effective date of this act shall take effect April 1 1962

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. 1901.

.....  
Governor