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Passed on File. *Amending 1 2/63*

**Senate File 360**  
By BUCK and FROMMELT.

Passed Senate, Date..... Passed House, Date.....  
Vote: Ayes..... Nays..... Vote: Ayes..... Nays.....  
Approved.....

## A BILL FOR

An Act relating to the licensing and bonding of persons, corporations, partnerships, copartnerships and agencies engaged in the collection of claims owed or due or asserted to be owed or due to another and prescribing penalties for the violation thereof.

*Be It Enacted by the General Assembly of the State of Iowa:*

1 Section 1. It shall be unlawful for any person,  
2 partnership, copartnership, corporation or voluntary  
3 association to conduct or operate within this state a  
4 collection agency or engage in the business within this state  
5 of collecting claims for others, or soliciting the right  
6 to collect, or receive payment for another of any claim, or  
7 advertise, or solicit, either in print, by letter, in person  
8 or otherwise for the right to make collection or obtain pay-  
9 ment of any claim on behalf of another, or to sell or other-  
10 wise distribute any system or systems of collection letters  
11 or similar printed matter where the name of any person,  
12 firm, copartnership, company, association or corporation  
13 other than the particular creditor to whom the debt is owed  
14 appears or indicates, directly or indirectly, that a third  
15 party may be involved in effecting any collection, without  
16 having first applied for and obtained a license as herein-  
17 after specified.

1 Sec. 2. Definitions, in this Act:

2 1. "Department," means the department of state and,

3 "secretary," means the secretary of state.

4 2. "Persons," means any individual, firm, partnership,  
5 association or corporation, except those hereinafter expressly  
6 exempted from the provisions of this chapter.

7 3. "Collection Agency," means and includes all persons  
8 engaging directly or indirectly in soliciting or acquiring  
9 or accepting any and all kinds of claims for collection or  
10 in the collection of any and all kinds of claims owed or  
11 due or asserted to be owed or due another, except this term  
12 shall not include the following when engaged in the regular  
13 course of their respective businesses or professions:

14 a. Duly licensed and practicing attorneys at law,  
15 licensed and practicing in the state of Iowa.

16 b. Persons regularly employed on a regular wage or  
17 salary by a creditor in the capacity of "credit men," or  
18 similar capacity, except as independent contractors;

19 c. Employee of licensees under this chapter;

20 d. Common carriers;

21 e. Banks, fiduciaries, financing and lending institu-  
22 tions duly authorized to transact such business under the  
23 laws of the state of Iowa, in the conduct of their own  
24 business, but not for other institutions or customers;

25 f. Licensed real estate brokers, in the conduct of  
26 their own business, as such;

27 g. Sub-station payment offices of public utilities in  
28 collecting their own accounts;

29 h. Judicial officers acting pursuant to court orders,  
30 but not including "justices of the peace," who carry on a  
31 collection agency as an adjunct of their official businesses.

32 4. "Claim," means any obligation for the payment of  
33 money or its equivalent and any sum or sums owed or due or  
34 asserted to be owed or due to another, for which any person  
35 may be employed to demand payment and to collect or enforce  
36 payment thereof.

37 5. "Licensee," means any person, firm, corporation or  
38 copartnership licensed to act as a collection agency under  
39 this chapter.

1 Sec. 3. Application for license, fees and bonds:

2 1. Application for license to engage in the collection  
3 business in the state of Iowa shall be made to secretary of  
4 state of the state of Iowa and shall be in writing, under  
5 oath, and on a form to be prescribed and furnished by the  
6 secretary of state; said application shall contain the full  
7 name and address of the applicant (both residence and  
8 business) and if a partnership, association or corporation  
9 the names of all the partners, associates or officers and  
10 members of the board of directors, to include both business  
11 and residence addresses of each of them, and such other and  
12 further information as the secretary and his administrative  
13 board hereinafter provided for may require.

14 2. Such application shall be accompanied by a fee of  
15 one hundred dollars (\$100.00) for each original license  
16 applied for, plus an investigation fee of fifty dollars  
17 (\$50.00) to cover the expense of investigating the quali-  
18 fications of the applicant for license. There shall be an  
19 additional fee of twenty-five dollars (\$25.00) for each  
20 branch office license issued.

21 3. Before any such license shall issue from the office

22 of the secretary the applicant shall file with the  
23 secretary for his approval, a corporate surety bond supplied  
24 by a corporate surety approved by the state of Iowa, in which  
25 the applicant is the obligor in the sum of ten thousand  
26 dollars (\$10,000.00) in which the state of Iowa and any  
27 person or persons who may have a cause of action against  
28 the obligor on said bond under the provisions of this Act  
29 are the beneficiaries thereof. Such bond shall be condi-  
30 tioned that said obligor will faithfully conform to and  
31 abide by the provisions of this Act and of all rules, regu-  
32 lations and directions lawfully made by the secretary and  
33 will pay to the state of Iowa and to any such person or  
34 persons any and all money that may become due or owing to  
35 the state of Iowa, or to such person or persons from said  
36 obligor under or by virtue of the provisions of this Act.

1 Sec. 4. Qualification for license:

2 1. No person shall be issued a license under this  
3 chapter who is less than twenty-one (21) years of age and  
4 who has not been a bona fide resident of the state of Iowa,  
5 continuously for at least one (1) year, immediately prior  
6 thereto. In the case of a corporation at least two (2) of  
7 its directors must have been such residents of the state of  
8 Iowa for at least one (1) year prior thereto and must  
9 continue to be such residents of the state of Iowa while  
10 said license is in effect.

11 2. Upon the filing of the application for license and  
12 the payment of the specified fees and the posting of an  
13 approved bond, the secretary shall cause an investigation  
14 to be made and if he shall find as a result thereof,

15 a. That the financial responsibility, experience,  
16 character and general fitness of the applicant is such as  
17 to command the confidence of the community and to warrant  
18 belief that the business will be operated honestly, fairly,  
19 ethically and efficiently within the purposes of this Act;  
20 and

21 b. That the applicant if an individual and the members  
22 thereof if a partnership or association, and officers and  
23 directors thereof if a corporation have never been convicted  
24 of a crime involving moral turpitude, or if such person or  
25 persons have not had a record of having defaulted, in the  
26 payment of money collected for others, then the secretary  
27 of state shall issue and deliver a license to the applicant  
28 to engage in the collection agency business in accordance  
29 with the provisions of this Act at the location specified  
30 in the said application, which license shall remain in full  
31 force and effect until it is surrendered by the licensee  
32 or revoked by the secretary, for cause; provided, however,  
33 that all such licenses shall expire by the terms thereof  
34 on December 31st annually, unless same be renewed as here-  
35 inafter provided.

1 Sec. 5. Renewal of license:

2 Each licensee under the provisions of this Act may on  
3 or before December 1st each year make application to the  
4 secretary of state for renewal of its license. The renewal  
5 license fee shall be the sum of fifty dollars (\$50.00) pay-  
6 able with the application. No renewal of license shall be  
7 granted unless the bond heretofore provided for is kept

8 current and in effect.

1 Sec. 6. Licenses for branch offices:

2 Any licensee licensed under the provisions of this Act  
3 may make application to the secretary for the operation of  
4 branch offices, on forms to be furnished by the secretary,  
5 said application shall be accompanied by a fee in the sum  
6 of twenty-five dollars (\$25.00) and shall be subject to  
7 renewal as in the case of the original license as hereinabove  
8 provided. Should a licensee change the location of his  
9 place of business or branch office he shall at once notify  
10 the secretary of such change and the secretary shall issue  
11 a corrected license for the unexpired period.

1 Sec. 7. License:

2 Each license issued hereunder or each branch office  
3 license issued hereunder shall state the address at which  
4 the business is to be conducted and shall state fully the  
5 name of the licensee and if the licensee is a partnership  
6 or association, the names of the members thereof, and if a  
7 corporation, its officers and directors and the date and  
8 place of its incorporation. Such license shall be kept  
9 conspicuously posted in the place of business of the licensee  
10 and shall not be transferable or assignable; except, on the  
11 death or incapacity of a licensee the secretary of state  
12 shall issue a temporary license to his personal represen-  
13 tative for the period necessary to administer the incompe-  
14 tent's of decedent's estate.

1 Sec. 8. Denial of license:

2 Before any application for license under this Act is  
3 denied, the secretary shall afford the applicant an oppor-

4 tunity to appear before him, in person, and be heard.  
5 Notice to appear shall be by registered mail addressed to  
6 the applicant at the address shown on his application and  
7 mailed at least ten (10) days prior to the date set for said  
8 hearing. If the application is denied, the secretary shall  
9 keep in his office a, "written order of denial," showing  
10 the causes therefore and the report of the investigation  
11 in the case and the findings made.

12 The applicant shall be notified not later than five  
13 (5) days after a decision, in writing if his application has  
14 been denied with a brief statement of the reasons for the  
15 denial set forth therein, said notice shall be by registered  
16 mail to the applicant's address as shown on his application.

1 Sec. 9. Revocation of license:

2 The license provided for by this Act shall be revoked  
3 by the secretary, if after notice by registered mail directed  
4 to the licensee at the address shown on the license, mailed  
5 ten (10) days prior thereto, he finds:

6 1. That the licensee has failed to pay the annual  
7 license fee or branch office fee as provided for in this  
8 Act, or has failed to keep in effect the bond provided for  
9 in this Act, or has failed to comply with any order, decision  
10 or finding of the secretary made pursuant to and within the  
11 authority of this Act;

12 2. Or that the licensee has been convicted of the  
13 violation of any of the provisions of this Act or any rule,  
14 regulation or direction lawfully made by the secretary under  
15 and within the authority of this Act;

16 3. Or if any fact or condition exists which if it

17 had existed at the time of the original application for  
18 such license would have warranted the secretary in refusing  
19 to issue said license originally.

1 Sec. 10. Surrender of license:

2 1. Any licensee may surrender his license at any time  
3 by written notice to the secretary but such surrender shall  
4 not affect the civil or criminal liability of the licensee  
5 under the provisions of this Act or the laws of the state  
6 of Iowa or on his bond. No part of any licensee fee shall  
7 be refundable upon surrender or revocation of said license.

8 2. No revocation or surrender of any license shall  
9 impair or affect the obligation of any pre-existing lawful  
10 contract between the licensee and any person or persons.

1 Sec. 11. Books and records and reports:

2 Each licensee shall keep and use in his business such  
3 books, accounts and records as may be necessary for the conduct  
4 of its business and as will enable the secretary to deter-  
5 mine whether such licensee is complying with the provisions  
6 of this Act and with the rules and regulations made under  
7 the authority of this Act by the secretary, in order to  
8 carry out the provisions thereof.

1 Sec. 12. Activities prohibited:

2 1. No licensee licensed under the provisions of this  
3 Act shall directly or indirectly aid, abet or receive com-  
4 pensation from an unlicensed person acting in the capacity  
5 of collection agency, subject to the exceptions noted in  
6 section two (2), subsection three (3), paragraphs a through  
7 h, but nothing in this Act shall prevent a licensed agency  
8 from accepting as forwardees or to forward as forwarder,

9 claims for collection from any collection agency or attorney  
10 or creditor whose place of business is outside of the state  
11 of Iowa.

12 2. No licensee licensed under the provisions of this  
13 Act shall fail to render an account of and to pay to the  
14 client for whom collection has been made, the proceeds of  
15 such collection, less the charges for collection in accor-  
16 dance with the terms of the agreement between the licensee  
17 and the client, within forty-five (45) days from the last  
18 day of the month in which same is collected.

19 3. No licensee shall in any manner engage in or attempt  
20 to engage in the practice of law in the conduct of his  
21 collection agency or use threats of legal action against  
22 debtors in his attempts to collect such claims as are listed  
23 with him for collection.

24 4. No licensee shall retain for collection, unless  
25 authorized so to do by the executor or administrator of an  
26 estate, claims from a decedent which had been listed with  
27 such agency for collection by the decedent during his life-  
28 time.

1 Sec. 13. Rules and regulations:

2 The secretary of state is authorized and empowered to  
3 make and enforce such reasonable rules and regulations,  
4 directions, decisions and findings as may be necessary for  
5 the execution and enforcement of the provisions of this Act  
6 and for the purposes sought to be attained herein and in  
7 addition thereto and not inconsistent therewith.

1 Sec. 14. Judicial review:

2 All final administrative decisions of the secretary of

3 state hereunder shall be subject to judicial review in the  
4 district courts of the state of Iowa, in the county where  
5 the licensee is authorized to do business or seeks to do  
6 business and such action may be commenced in the same manner  
7 as any ordinary action shall be commenced under the laws of  
8 the state of Iowa, as may be in effect from time to time,  
9 and shall be tried as an equity action.

1 Sec. 15. Partial invalidity:

2 If any clause, sentence, section, provision or part  
3 of this Act shall be adjudged to be unconstitutional or  
4 invalid for any reason by any court of competent jurisdiction,  
5 such judgment shall not impair, affect or invalidate the  
6 remainder of this Act which shall be in full force and effect  
7 thereafter.

1 Sec. 16. Time to secure first license:

2 Within thirty (30) days following the effective date  
3 of this Act, all collection agencies then operating as such  
4 in the state of Iowa shall file their initial application  
5 for license hereunder, together with the fees and bond  
6 heretofore provided and they are authorized to continue to  
7 conduct their business, as such, until the secretary has  
8 either granted the license applied for or refused to issue  
9 such license as heretofore provided.

1 Sec. 17. Discontinuing business:

2 In the event a collection agency business is discontin-  
3 ued, for any reason, in the state of Iowa, before said  
4 business is closed the operator or owner or licensee shall  
5 notify the secretary of state of his intention to so close  
6 at least thirty (30) days before the date set for final

7 distribution of the assets of said agency and shall furnish  
8 the secretary with proof on a form to be determined by the  
9 secretary that:

- 10 1. Proper remittance has been or will be made to all  
11 forwarders or clients for money collected.
- 12 2. That all accounts, papers, securities and claims,  
13 not collected have been returned to creditors.
- 14 3. That the license, if any, has been surrendered.
- 15 4. That the surety on the licensee's bond has been  
16 notified of such action at least thirty (30) days prior there-  
17 to.

1 Sec. 18. Administrative Board:

2 The secretary of state shall within thirty (30) days  
3 after the effective date of this Act appoint an adminis-  
4 trative board consisting of three (3) members to assist  
5 him in the administration of this Act.

6 The terms of the members of such board shall be for  
7 four (4) years, except the members of the first board shall  
8 be appointed to serve for two (2) three (3) and four (4)  
9 years respectively with their successors to be appointed  
10 to four (4) year terms as the initial terms expire.

11 The membership of said board shall be composed of  
12 licensees in good standing in the state of Iowa, except in  
13 the case of a corporate licensee, in which event an officer  
14 of the said corporation shall serve on behalf of the  
15 licensee so appointed. No two members of the board shall  
16 come from the same corporate licensee or the same county.

17 Said board members shall be reimbursed by the secretary  
18 from license fees at the rate of ten (10) cents per mile

19 for mileage incurred in actual pursuit of their duties in  
20 connection herewith and a per diem allowance of eight  
21 dollars (\$8.00) per day, but in no event shall any board  
22 member be paid a total of mileage and compensation in  
23 excess of five hundred dollars (\$500.00) in any one year  
24 for services actually rendered by him under this Act.

25 In the event the license of any licensee is revoked  
26 by the secretary as provided in section nine (9) above or  
27 a license is surrendered as provided for in section ten  
28 (10) above it shall be the duty of the administrative  
29 board under the supervision of the secretary to supervise  
30 and if necessary to take charge of the office or branch  
31 office of the said licensee and see that an orderly sale  
32 or liquidation of said business is accomplished to prevent  
33 loss to the licensee's customers and to the public, except  
34 in such cases where the affairs, business or estate of the  
35 licensee are already in the hands of an officer of the  
36 court or a duly appointed personal representative under  
37 orders of the court.

1 Sec. 19. Penalties:

2 It shall be a misdemeanor for any person willfully to  
3 violate the provisions of this Act relating to licensing  
4 and bonding of a licensee and the orderly operation of  
5 such business as license provides for, unless such violation  
6 is by other law of this state declared to be a felony and  
7 unless another penalty is by the laws of this state provided  
8 for the violation of any of the provisions of this Act;  
9 every person convicted of a misdemeanor under this Act shall  
10 be punished by a fine of not to exceed one hundred dollars

11 (\$100.00) or by imprisonment for not more than thirty (30)  
12 days in the county jail or by both such fine and imprison-  
13 ment.

1 Sec. 20. Use of license fees:

2 The license fees and investigation fees provided for  
3 in this Act and paid to the secretary by the licensees  
4 shall be used by the secretary to defray the expense of  
5 administering this Act by his office and in payment of  
6 mileage and expenses of his administrative board heretofore  
7 provided for in carrying out the duties of their offices.

8 Any moneys not so expended from said license fees shall  
9 revert to general fund of the state of Iowa, on December 31st,  
10 each year.