

1 AMENDMENT TO SENATE BILL 263

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 263, on page 1,  
3 below line 20, by inserting the following:

4 "Section 15. The Detection of Deception Examiners Act  
5 is amended by changing Sections 1, 11, 17, 18, 22, 23, 24,  
6 25, 26.1, 29, and 30 and adding Section 7.2 as follows:

7 (225 ILCS 430/1) (from Ch. 111, par. 2401)

8 Sec. 1. Definitions. As used in this Act, unless the  
9 context otherwise requires: "Detection of Deception  
10 Examination", hereinafter referred to as "Examination" means  
11 any examination in which a device or instrument is used to  
12 test or question individuals for the purpose of evaluating  
13 truthfulness or untruthfulness.

14 "Examiner" means any person licensed under this Act.

15 "Person" includes any natural person, partnership,  
16 association, corporation or trust.

17 "Department" means the Department of Professional  
18 Regulation of the State of Illinois.

19 "Director" means the Director of Professional Regulation  
20 of the State of Illinois.

21 "~~Committee~~"-means-the--Detection--of--Deception--Examiner  
22 ~~Committee-provided-for-in-this-Act.~~

1 "Him" means both the male and female gender.

2 (Source: P.A. 85-1209.)

3 (225 ILCS 430/7.2 new)

4 Sec. 7.2. Detection of Deception Examiners Act  
5 Coordinator. The Director may appoint a Detection of  
6 Deception Examiners Act Coordinator to assist the Department  
7 in the administration of this Act. The Detection of  
8 Deception Examiners Act Coordinator shall be a person  
9 licensed under this Act and shall have no less than 5 years  
10 of experience as an examiner. The Detection of Deception  
11 Examiners Act Coordinator shall perform such administrative  
12 functions on a full or part-time basis as may be delegated to  
13 him or her by the Director, including, but not limited to,  
14 revision of the licensing examination.

15 Whenever the Director is satisfied that substantial  
16 justice has not been done in an examination, he may order a  
17 re-examination by the same or other examiners.

18 (225 ILCS 430/11) (from Ch. 111, par. 2412)

19 Sec. 11. Qualifications for licensure as an examiner. A  
20 person is qualified to receive a license as an examiner:

21 A. Who establishes that he is a person of good moral  
22 character; and

23 B. Who has passed an examination approved by the  
24 Department conducted-by-the-Examiner-Committee, or under--its  
25 supervision, to determine his competency to obtain a license  
26 to practice as an examiner; and

27 C. Who has had conferred upon him an academic degree, at  
28 the baccalaureate level, from an accredited college or  
29 university; and

30 D. Who has satisfactorily completed 6 months of study in  
31 detection of deception, as prescribed by rule.

32 Conviction of a misdemeanor involving moral turpitude or

1 a felony may be considered, but shall not be determinative,  
2 in determining whether an applicant is of good moral  
3 character.

4 (Source: P.A. 82-200.)

5 (225 ILCS 430/17) (from Ch. 111, par. 2418)

6 Sec. 17. Complaints; investigations. The Department may  
7 upon its own motion and shall, upon the verified complaint in  
8 writing of any person setting forth facts which if proved  
9 would constitute grounds for refusal, suspension or  
10 revocation of a license under this Act, investigate the  
11 actions of any applicant or of any person or persons holding  
12 or claiming to hold a license. The Department shall, before  
13 refusing to issue and before suspension or revocation of a  
14 license, at least 30 days prior to the date set for the  
15 hearing, notify in writing the applicant for, or holder of, a  
16 license of the nature of the charges and that a hearing will  
17 be held on the date designated. The Department shall direct  
18 the applicant or licensee to file a written answer with to  
19 the Department Board under oath within 20 days after the  
20 service of the notice and inform the applicant or licensee  
21 that failure to file an answer will result in default being  
22 taken against the applicant or licensee and that the license  
23 or certificate may be suspended, revoked, placed on  
24 probationary status, or other disciplinary action may be  
25 taken, including limiting the scope, nature or extent of  
26 practice, as the Director may deem proper. In case the person  
27 fails to file an answer after receiving notice, his or her  
28 license or certificate may, in the discretion of the  
29 Department, be suspended, revoked, or placed on probationary  
30 status, or the Department may take whatever disciplinary  
31 action deemed proper, including limiting the scope, nature,  
32 or extent of the person's practice or the imposition of a  
33 fine, without a hearing, if the act or acts charged

1 constitute sufficient grounds for such action under this Act.  
 2 The hearing shall determine whether the applicant or holder,  
 3 hereinafter called the respondent is privileged to hold a  
 4 license, and shall afford the respondent an opportunity to be  
 5 heard in person or by counsel in reference thereto. Written  
 6 notice may be served by delivery of the same personally to  
 7 the respondent at the address of his last notification to the  
 8 Department. At the time and place fixed in the notice, the  
 9 Department ~~Committee~~ shall proceed to hear the charges and  
 10 both the respondent and Department ~~complainant~~ shall be  
 11 accorded ample opportunity to present in person or by counsel  
 12 such statements, testimony, evidence and argument as may be  
 13 pertinent to the charges or to their defense. The Department  
 14 ~~Committee~~ may continue the hearing from time to time. If--the  
 15 ~~Committee-shall-not-be-sitting-at-the-time-and-place-fixed-in~~  
 16 ~~the--notice--or--at--the--time-and-place-to-which-the-hearing~~  
 17 ~~shall-have-been-continued,~~ the Director--shall--continue--the  
 18 ~~hearing--for--a-period-not-to-exceed-30-days,~~ unless extended  
 19 ~~by-stipulation-of-both-parties.~~

20 (Source: P.A. 87-1031.)

21 (225 ILCS 430/18) (from Ch. 111, par. 2419)

22 Sec. 18. Stenographer; transcript; Hearing Officer  
 23 ~~Committee~~ report. The Department, at its expense, shall  
 24 provide a stenographer to take down the testimony and  
 25 preserve a record of all proceedings at the hearing of any  
 26 case involving the refusal to issue or the suspension or  
 27 revocation of a license. The notice of hearing, complaint and  
 28 all other documents in the nature of pleadings and written  
 29 motions filed in the proceedings, the transcript of  
 30 testimony, the report of the Hearing Officer ~~Committee~~ and  
 31 orders of the Department shall be the records of the  
 32 proceedings. The Department shall furnish a transcript of the  
 33 record to any person or persons interested in the hearing

1 upon the payment of the fee required under Section 2105-115  
2 of the Department of Professional Regulation Law (20 ILCS  
3 2105/2105-115).

4 At the conclusion of the hearing, the Hearing Officer  
5 shall make findings of fact, conclusions of law, and  
6 recommendations, separately stated, and submit them to the  
7 Director and to all parties to the proceeding.

8 The Hearing Officer's findings of fact, conclusions of  
9 law, and recommendations shall be served upon the licensee in  
10 a similar fashion as service of the notice of formal charges.  
11 Within 20 days after the service, any party to the proceeding  
12 may present to the Director a motion, in writing, specifying  
13 the particular grounds for a rehearing.

14 The Director, following the time allowed for filing a  
15 motion for rehearing, shall review the Hearing Officer's  
16 findings of fact, conclusions of law, and recommendations and  
17 any subsequently filed motions. After review of the  
18 information, the Director may hear oral arguments and  
19 thereafter shall issue the order. The report of findings of  
20 fact, conclusions of law, and recommendations of the Hearing  
21 Officer shall be the basis for the Department's order. If  
22 the Director finds that substantial justice was not done, the  
23 Director may issue an order in contravention of the Hearing  
24 Officer's recommendations. In any case involving the refusal  
25 to issue or the suspension or revocation of a license, a copy  
26 of the Committee's report shall be served upon the respondent  
27 by the Department, either personally or by registered or  
28 certified mail as provided in this Act for the service of the  
29 notice of hearing. Within 20 days after service, the  
30 respondent may present to the Department a motion in writing  
31 for a rehearing, which shall specify the particular grounds  
32 for rehearing. If no motion for rehearing is filed, then upon  
33 the expiration of the time specified for filing a motion, or  
34 if a motion for rehearing is denied, then upon denial the

1 Director---may---enter---an---order---in---accordance---with  
 2 recommendations--of--the--Committee.--If--the--respondent--shall  
 3 order--and--pay--for--a--transcript--of--the--record--within--the--time  
 4 for--filing--a--motion--for--rehearing,--the--20--day--period--within  
 5 which--a--motion--may--be--filed--shall--commence--upon--the--delivery  
 6 of--the--transcript--to--the--respondent.

7 (Source: P.A. 91-239, eff. 1-1-00.)

8 (225 ILCS 430/22) (from Ch. 111, par. 2423)

9 Sec. 22. Regulations; forms. The Director,--on--the  
 10 recommendation--of--the--Committee, may issue regulations,  
 11 consistent with the provisions of this Act, for the  
 12 administration and enforcement thereof and may prescribe  
 13 forms which shall be issued in connection therewith.

14 (Source: Laws 1963, p. 3300.)

15 (225 ILCS 430/23) (from Ch. 111, par. 2424)

16 Sec. 23. Action or counterclaim. No action or  
 17 counterclaim shall be maintained by any person in any court  
 18 in this State with respect to any agreement or services for  
 19 which a license is required by this Act or to recover the  
 20 agreed price or any compensation under any such agreement, or  
 21 for such services for which a license is required by this Act  
 22 without alleging and proving ~~providing~~ that such person had a  
 23 valid license at the time of making such agreement or doing  
 24 such work.

25 (Source: Laws 1963, p. 3300.)

26 (225 ILCS 430/24) (from Ch. 111, par. 2425)

27 Sec. 24. Injunctions; cease and desist orders. If any  
 28 person violates a the provision of this Act, the Director  
 29 may, in the name of the People of the State of Illinois,  
 30 through the Attorney General of the State of Illinois, apply,  
 31 in the circuit court, for an order enjoining such violation

1 or for an order enforcing compliance with this Act. Upon the  
2 filing of a verified complaint in such court, the court or  
3 any judge thereof, if satisfied by affidavit or otherwise  
4 that such person has violated this Act, may enter a temporary  
5 restraining order or preliminary injunction, without notice  
6 or bond, enjoining such continued violation, and if it is  
7 established that such person has violated or is violating  
8 this Act, the Court may summarily try and punish the offender  
9 for contempt of court. Proceedings under this section shall  
10 be in addition to, and not in lieu of, all other remedies and  
11 penalties provided by this Act.

12 The Department may conduct hearings and issue cease and  
13 desist orders with respect to persons who engage in  
14 activities prohibited by this Act. Any person in violation  
15 of a cease and desist order entered by the Department shall  
16 be subject to all of the remedies provided by law and, in  
17 addition, shall be subject to a civil penalty payable to the  
18 party injured by the violation in an amount up to \$10,000.

19 (Source: P.A. 83-334.)

20 (225 ILCS 430/25) (from Ch. 111, par. 2426)

21 Sec. 25. Order or certified copy; prima facie proof. An  
22 order or a certified copy thereof, over the seal of the  
23 Department and purporting to be signed by the Director, shall  
24 be prima facie proof that:

25 (a) the signature is the genuine signature of the  
26 Director; and

27 (b) the Director is duly appointed and qualified;  
28 and

29 ~~(c) the Committee and the members thereof are~~  
30 ~~qualified to act.~~

31 (Source: P.A. 91-357, eff. 7-29-99.)

32 (225 ILCS 430/26.1) (from Ch. 111, par. 2427.1)

1           Sec. 26.1. Returned checks; fines. Any person who  
2 delivers a check or other payment to the Department that is  
3 returned to the Department unpaid by the financial  
4 institution upon which it is drawn shall pay to the  
5 Department, in addition to the amount already owed to the  
6 Department, a fine of \$50. ~~If the check or other payment was~~  
7 ~~for a renewal or issuance fee and that person practices~~  
8 ~~without paying the renewal fee or issuance fee and the fine~~  
9 ~~due, an additional fine of \$100 shall be imposed.~~ The fines  
10 imposed by this Section are in addition to any other  
11 discipline provided under this Act for unlicensed practice or  
12 practice on a nonrenewed license. The Department shall notify  
13 the person that payment of fees and fines shall be paid to  
14 the Department by certified check or money order within 30  
15 calendar days of the notification. If, after the expiration  
16 of 30 days from the date of the notification, the person has  
17 failed to submit the necessary remittance, the Department  
18 shall automatically terminate the license or certificate or  
19 deny the application, without hearing. If, after termination  
20 or denial, the person seeks a license or certificate, he or  
21 she shall apply to the Department for restoration or issuance  
22 of the license or certificate and pay all fees and fines due  
23 to the Department. The Department may establish a fee for the  
24 processing of an application for restoration of a license or  
25 certificate to pay all expenses of processing this  
26 application. The Director may waive the fines due under this  
27 Section in individual cases where the Director finds that the  
28 fines would be unreasonable or unnecessarily burdensome.  
29 (Source: P.A. 87-1031.)

30           (225 ILCS 430/29) (from Ch. 111, par. 2430)

31           Sec. 29. Restoration of license. At any time after the  
32 suspension or revocation of any license, the Department may  
33 restore it to the accused person, ~~upon the written~~



1 ~~recommendation-of-the-Committee.~~

2 (Source: Laws 1963, p. 3300.)

3 (225 ILCS 430/30) (from Ch. 111, par. 2431)

4 Sec. 30. An applicant who is an Examiner, licensed under  
5 the laws of another state or territory of the United States,  
6 may be issued a license without examination by the  
7 Department, in its discretion, upon payment of a fee as set  
8 by rule of \$50.00, and the production of satisfactory proof:  
9 ;

10 (a) that he is of good moral character; and

11 (b) that the requirements for the licensing of Examiners  
12 in such particular state or territory of the United States  
13 were, at the date of licensing, substantially equivalent to  
14 the requirements then in force in this State.

15 (Source: P.A. 82-200.)

16 (225 ILCS 430/7 rep.)

17 Section 20. The Detection of Deception Examiners Act is  
18 amended by repealing Section 7."