must not only be ignored but should also be repealed or rescinded as soon as possible. Acts 1945, ch. 120, as found in Burns IND. STAT. ANN., § 60-1506, governs the procedure for repeal and reads as follows:

"In case any agency desires to repeal, rescind or amend any rule the same procedure shall be followed as provided in this act [§§ 60-1501, 60-1511] for the adoption of a rule."

In summary hereof it is my opinion:

1. That Rule 7 of the State Board of Certified Accountants of Indiana is invalid.

2. That Rule 7 should no longer be followed by the State Board of Certified Accountants of Indiana and that certificates should be issued to candidates for registration who were unable to meet the requirement of Rule 7 but were qualified in other respects.

3. That Rule 7 should be repealed or rescinded by the State Board of Certified Accountants of Indiana as soon as possible.

OFFICIAL OPINION NO. 6
April 21, 1965

Hon. John D. Bottorff
Secretary of State
201 State House
Indianapolis, Indiana 46204

Dear Mr. Bottorff:

This is my answer to your recent request for an Official Opinion on the following question:

"Must an out-of-state collection agency post a Surety Bond, file a financial statement, and maintain an office in the State of Indiana in order to be licensed and to be able to transact business in the State of Indiana?"

An "out-of-state" or nonresident collection agency which desires to transact business in this state must file a financial statement, post a surety bond, and agree to maintain at least
one office in this state as prerequisites to qualify to be issued a license to transact such business in this state.

Acts of 1937, ch. 92, § 3, as amended by the Acts 1955, ch. 304, § 3, as found in Burns IND. STAT. ANN., § 42-1803, reads, in part, as follows:

"(e) Every original and renewal application [for a license to conduct a collection agency] shall be accompanied by the following:

"1. A financial statement of the applicant showing the assets and liabilities of the applicant, which statement shall accurately reflect the net worth of the applicant in cash or its equivalent and is available for the use of the applicant in his business. The financial statement shall be attested to by the applicant if the applicant is an individual, or by a partner, director, manager or treasurer if the applicant is a partnership or a corporation. The information contained in the financial statement shall be confidential and shall not be a public record.

"2. The names of at least three [3] individuals who can be used as references and who are well acquainted with the reputation of the applicant for honesty and moral integrity, and the manner in which the applicant conducts his business.

"3. A corporate surety bond in the sum of five thousand dollars [$5,000] for each office the applicant operates in the State of Indiana. All bonds shall run to the people of the State of Indiana and shall be furnished by a surety company authorized to do business in this state. All bonds shall be conditioned upon the faithful accounting of all moneys collected upon accounts entrusted to such person and shall be continuous in form and shall remain in full force and effect and run continuously with the license period and any renewal thereof. All bonds shall further be conditioned upon the provision that the applicant shall, within sixty [60] days from the date of the collection of any claim, render an account of and pay to the client, for whom collection has been made, the proceeds of such collection less the charges for collection agreed upon by and
between the applicant and the client. All bonds shall
be filed in the office of the secretary of state and shall
be approved by the secretary of state before being filed.
All bonds filed and approved shall be for the use and
benefit of all persons damaged by the wrongful con-
version of any moneys by such person, and any indi-
vidual so injured or aggrieved may bring an action
upon such bond. The surety company may notify the
secretary of state and principal of its desire to termi-
nate its liability under any bond furnished. Thirty [30]
days after receipt of such notice by the secretary of
state, the secretary of state shall thereupon require
the principal to file a new bond or discontinue all op-
erations. If a new bond is filed by the principal all
liability under any previous bond shall thereupon cease
and terminate. If a new bond shall not be filed within
the thirty [30] day period above specified the secretary
of state shall, after expiration of the period, revoke
the principal’s license.

“4. Any applicant who is a nonresident of the State
of Indiana shall also submit a statement appointing
an agent or attorney resident herein, upon whom all
legal process against the applicant may be served. The
statement shall contain a stipulation that the applicant
agrees that service of legal process upon such agent or
attorney shall be valid service upon the applicant.”

Acts of 1937, ch. 92, § 4, as amended by the Acts of 1955,
ch. 304, § 4, as found in Burns IND. STAT. ANN., § 42-1804,
reads, in part, as follows:

“The following qualifications shall be required of all
individual applicants and of any individual who is an
officer of any corporation or a member of any partner-
ship or firm and actively manages the collection of or
solicits accounts for collection for any firm, partner-
ship, or corporation which makes an application for a
collection agency license:

* * *

“(2) He shall not have been convicted of any crime
involving moral turpitude;
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“(3) He shall not have had a record as a defaulter in the payment of money collected or received for another; and

“(4) He shall not be a former licensee under the provisions of this act whose license has been suspended or revoked and was not subsequently reinstated under the provisions of this act.

“The applicant to whom the license applied for is to be issued shall meet the financial responsibility and bonding requirements hereof and shall agree to maintain at least one office in this state for the conduct of his business.” (Our emphasis.)

Both sections apply to resident and nonresident applicants alike.

Acts of 1937, ch. 92, § 5, as amended by the Acts of 1955, ch. 304, § 5, as found in Burns IND. STAT. ANN., § 42-1805, reads, in part, as follows:

“The secretary of state shall issue a license to any person who holds and presents with such application a valid and subsisting license to operate a collection agency issued by another state or agency thereof; Provided, That (1) the requirements for the securing of such license were, at the time of issuance, substantially the same or equal to the requirements imposed by this act; (2) the state concerned extends reciprocity under similar circumstances to licensed collection agencies of this state; (3) the application is accompanied by the fees and financial bonding requirements as provided in this act; and (4) the applicant shall maintain an office in this state for the conduct of his business.” (Our emphasis.)

It is clear both from the language of this act and the nature of the subject legislated that the intent of the General Assembly in passing this statute was to require all applicants for a license to conduct a collection agency in this state to file a statement concerning their financial responsibility in the office of Secretary of State, to post a surety bond to protect
residents of the State of Indiana against financial loss and to maintain not less than one (1) office in this state for the conduct of their businesses, as conditions to qualifying to be issued licenses to serve as collection agencies. Any applicant who fails to meet any of the above requirements fails to qualify to be issued a license.

To conclude that nonresident applicants for licenses to conduct collection agencies need not file a financial statement, post a surety bond and maintain an office in this state, would give to such applicants a more relaxed road to the license than has been granted to residents of our state. A comprehensive reading of the statute indicates that such was not the intent of the Legislature.

"In construing a statute to ascertain the intention of the Legislature, the court should consider the object or purpose to be attained by the statute and the evils and mischiefs sought to be remedied. If a statute is susceptible of more than one construction, it should, if possible, be given the construction which will effectuate or carry out its purpose or object, and to suppress the evil it was intended to remedy, even though such construction is not within the strict letter of the statute."

26 I.L.E., Statutes, Section 114, Indiana Authorities Cited.

Acts of 1937, ch. 92, § 7, as added by the Acts of 1955, ch. 304, § 7, as found in Burns IND. STAT. ANN., § 42-1807, reads, in part, as follows:

“(1) It is unlawful for any person to conduct, within this state, a collection agency without first having applied for and obtained a license under the provisions of this act.

*   *   *

“(4) It is unlawful for any person operating a collection agency except a non-resident collection agency, in this state to fail to maintain at least one [1] office, as defined by the terms of this act.” (Our emphasis.)
Acts of 1937, ch. 92, § 12, as added by the Acts of 1955, ch. 304, § 12, as found in Burns IND. STAT. ANN., § 42-1812, reads, in part, as follows:

"Any person violating any of the provisions of this act shall be guilty of a misdemeanor and upon conviction shall be fined in any sum not exceeding five hundred dollars [§500], or imprisoned for any period not exceeding six [6] months, or by both such fine and imprisonment.

"If a corporation violates any of the provisions of this act the corporation shall be fined in any sum not exceeding five hundred dollars [§500]."

It is not our concern, presently, with whether or not the operation of the criminal provisions of this statute are limited by the exception which is stated in Burns 42-1807, supra.

We are here concerned, have considered, and do conclude, however, that any person who has been granted a license to conduct the business of a collection agency in this state and does so without maintaining at least one office in this state for the transaction thereof, subjects such license to suspension or revocation under the provisions of Acts 1937, ch. 92, § 9, as added by the Acts of 1955, ch. 304, § 9, as found in Burns IND. STAT. ANN., § 42-1809, which reads as follows:

"Upon the filing with the secretary of state, by any interested person, of a verified written complaint which charges any licensee hereunder with a specific violation of any of the provisions of this act, the secretary of state shall cause an investigation of the complaint to be made. If the investigation shows probable cause for the revocation or suspension of the license, the secretary of state shall send a written notice to such licensee, stating in such notice the alleged grounds for the revocation or suspension and fixing a time and place for the hearing thereof. The hearing shall be held not less than five [5] days nor more than twenty [20] days from the time of the mailing of said notice. The secretary of state may subpoena witnesses, books and records and may administer oaths. The licensee may
appear and defend against such charges in person or by counsel. If upon such hearing the secretary of state finds the charges to be true, he shall either revoke or suspend the license of the licensee. Suspension shall be for a time certain and in no event for a longer period than one [1] year. No license shall be issued to any person whose license has been revoked, for a period of two [2] years, from the date of revocation. Reapplication for a license, after revocation as provided, shall be made in the same manner as provided in this act for an original application for a license.”

It is my opinion that a nonresident collection agency must file a financial statement, post a surety bond and agree to maintain at least one office in this state to qualify to be licensed to transact business in this state; and if the agreement to maintain the office as aforesaid is breached, such person subjects his license to suspension or revocation.

OFFICIAL OPINION NO. 7

April 27, 1965

Hon. Jack H. Mankin
Indiana State Senator
124 South Sixth Street
Terre Haute, Indiana

Dear Senator Mankin:

You have asked whether under Ind. Acts of 1917, ch. 144, as amended and supplemented, Burns IND. STAT. ANN., §§ 22-3115 to 22-3140, particularly Burns IND. STAT. ANN., § 22-3118 (Burns Repl. 1964),

“... a board of Hospital trustees of a county hospital is authorized to lease or own and operate and maintain a nursing home for the long term nursing care of patients admitted thereto and specifically whether or not, under the above cited statute, such is an authorized hospital purpose.”