

SUBSTITUTE FOR
SENATE BILL NO. 947

A bill to amend 1980 PA 299, entitled
"Occupational code,"
by amending sections 910 and 917 (MCL 339.910 and 339.917), as
amended by 1996 PA 151.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 910. (1) A collection agency shall keep and use books,
2 accounts, or records that the department requires to determine
3 whether the collection agency is complying with this article and
4 the rules promulgated under this article. These books, accounts,
5 and records shall ~~consist of~~ **INCLUDE** at least ~~, but not be limited~~
6 ~~to,~~ all of the following:

7 (a) Permanent records that show the chronological sequence in
8 which ~~funds are~~ **MONEY IS** received and disbursed. For ~~funds~~ **MONEY**

received, the record shall include the date of receipt and deposit, the number of the account to which **IT IS** deposited, the name of the debtor, the name of the principal, and the amount. For disbursements, the record shall include the date, the payee, the check number, and the amount, with a corresponding debtor reference.

(b) ~~Each~~ **FOR AN** agency licensee, ~~shall~~ **ALL OF THE FOLLOWING:**

(i) ~~Maintain records~~ **RECORDS** or books of accounts that ~~set forth~~ **INCLUDE** the account of each client in alphabetical order according to the names of the clients. If the licensee's books of accounting are kept in numerical order, then the licensee shall maintain an alphabetical cross index of each client corresponding with the number of the account. Each account shall reflect the true condition of each debtor's account at the end of each calendar month and shall include all of the following:

(A) The name and address of the client.

(B) The name of the debtor or debtors from whom collection was or is being made.

(C) The amount and description of each debit and each credit and date of each debit and credit.

(D) The balance due to or owing from each client.

(ii) ~~Maintain a~~ **A** record and history of each claim or account for collection that shall clearly show all of the following:

(A) The name of the debtor.

(B) The principal amount of the obligation.

(C) Any other or additional amounts or items charged or collected with a description of amounts or items charged or

1 collected.

2 (D) Each payment received or collected and the date of receipt
3 or collection.

4 (E) The balance owing.

5 (c) ~~All receipts~~ **EACH RECEIPT** issued, ~~shall be signed by and~~
6 with the name or initials of the ~~person issuing~~ **INDIVIDUAL WHO**
7 **ISSUED** the receipt and ~~shall show~~ the name of the issuing agency.

8 (2) A collection agency shall preserve the books, accounts,
9 and records **DESCRIBED IN SUBSECTION (1)** and make them or true
10 copies of them accessible to the department for at least 3 years
11 after making the final payment entry on an account recorded in
12 those books, accounts, and records.

13 (3) Annually before May 16 a collection agency shall file a
14 report with the department ~~giving~~ **THAT INCLUDES ANY** relevant
15 information ~~that~~ **REQUIRED BY** the department ~~requires~~ concerning the
16 business and operations during the preceding calendar year of each
17 licensed place of business conducted by the collection agency. The
18 report shall be made under oath and in the form prescribed by the
19 department.

20 (4) The department may require a collection agency to file a
21 sworn financial report of the trust account **THE COLLECTION AGENCY**
22 **IS** required to ~~be maintained by the collection agency~~ **MAINTAIN** and
23 may designate the information ~~to be contained~~ **THE COLLECTION AGENCY**
24 **MUST INCLUDE** in the report.

25 (5) ~~Collection agency~~ **THE DEPARTMENT MAY AUDIT A COLLECTION**
26 **AGENCY'S** books, accounts, and records ~~shall be audited by the~~
27 ~~department on a biennial basis or when determined necessary by the~~

1 director.

2 (6) Information provided to the director under this section
3 ~~shall be~~ **IS** exempted from disclosure except in actions commenced
4 under this article.

5 (7) A collection agency that is located in this state shall
6 maintain its books and records in this state. A collection agency
7 that is licensed to do business in this state but is located in
8 another state may maintain its books and records either in this
9 state or in the state where it is located. Except as provided in
10 subsection (8), a collection agency that chooses to maintain its
11 books and records in another state shall pay the expenses of a
12 compliance attestation report by the department. The department
13 shall charge expenses in accordance with the standardized travel
14 regulations of the department of **TECHNOLOGY**, management, and
15 budget.

16 (8) In place of a department audit **UNDER SUBSECTION (5)**, the
17 department may permit a collection agency that is located in
18 another state to submit to a compliance attestation report
19 conducted by a certified public accountant who is licensed in the
20 state in which the collection agency is located.

21 Sec. 917. A licensee ~~who~~ **THAT** commits 1 or more of the
22 following is subject to the ~~strictures~~ **PENALTIES** described in
23 article 6:

24 (a) Cancellation of a surety bond.

25 (b) Failure to notify the director of any changes in corporate
26 or partnership structure ~~pursuant to~~ **UNDER** section 906.

27 (c) Failure to apply for a separate license for each place of

1 business ~~pursuant to~~ **UNDER** section 904.

2 (d) Commencing operation before issuance of a license ~~pursuant~~
3 ~~to~~ **UNDER** section 904.

4 (e) Operation before the renewal of an expired license.

5 (f) Failure to preserve and make accessible books, accounts,
6 and records ~~pursuant to~~ **UNDER** section 910(2).

7 (g) Failure to submit an annual report ~~pursuant to~~ **UNDER**
8 section 910(3).

9 (h) Failure to file a sworn financial report when required by
10 the director ~~pursuant to~~ **UNDER** section 910(4).

11 (i) Failure to allow an audit of books, accounts, and records
12 ~~on a biennial basis or when determined necessary by the director~~
13 ~~pursuant to~~ **UNDER** section 910(5).

14 (j) Failure to pay the expenses of an audit conducted by the
15 department ~~pursuant to~~ **UNDER** section 910(7), if the licensee is not
16 located in this state.

17 (k) Violation of any federal or state act relating to debt
18 collection.

19 Enacting section 1. The legislature recognizes that the
20 purpose of this article is to eliminate abusive debt collection
21 practices by debt collectors and to promote consistent state action
22 to protect consumers against debt collection abuses. It is not the
23 intent of the legislature in the creation of this article to
24 regulate companies that hire licensed collection agencies to
25 repossess collateral.