



**House  
Legislative  
Analysis  
Section**

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**INTERSTATE COMM. ACTIVITIES**

**House Bill 5022 (Substitute H-2)  
First Analysis (10-19-93)**

**Sponsor: Rep. Kirk A. Profit  
Committee: Business & Finance**

***THE APPARENT PROBLEM:***

The Occupational Code currently prohibits someone from operating a collection agency or engaging in collection activities within the state without first applying for and receiving from the Department of Commerce a license to do so. With this provision, collection agencies from other states are effectively barred from pursuing, even by phone or mail, Michigan residents who are their debtors without first paying a license fee and obtaining an appropriate bond. While larger out-of-state collection firms usually have no trouble paying the fees and meeting basic bond requirements, a number of smaller companies often cannot afford to do so. Unfortunately, debtors today are able to move quickly from a state where they incur a debt to one where a collection agency is not allowed to pursue them without first meeting the licensing and bond requirements. There currently are about 25 other states that require collection agencies from other states to meet certain licensing requirements before they may even communicate with debtors residing in these respective states' borders. To correct this problem, the American Collectors Association--which represents collection agencies throughout the nation--has begun a national campaign to encourage all states to eliminate licensing requirements for certain debt collection activities involving "interstate communication" (i.e., by phone or facsimile machine, or via mail). At least seven states have recently adopted such a law, and some people think Michigan should, too.

***THE CONTENT OF THE BILL:***

The bill would amend the Occupational Code (MCL 339.904) to exempt persons whose collection activities in the state were limited to "interstate communications" from the requirement that they obtain a license from the Department of Commerce before carrying on these activities here. Such persons, however, would still be subject to other statutory provisions regulating collection practices.

***FISCAL IMPLICATIONS:***

The Department of Commerce says it does not know how many collection agencies from out of state currently pay the license fee required of them, as specified in the Occupational Code, and thus cannot accurately determine what fiscal impact the bill would have to the department. The department, however, says it expects that the bill would have negligible fiscal impact. (10-18-93)

***ARGUMENTS:***

***For:***

Michigan is currently one of a number of states that requires out-of-state collection agencies that wish to contact debtors here to first pay a \$250 license fee to the Department of Commerce and obtain a bond of the appropriate amount (up to \$50,000) before they may even communicate, whether by phone, facsimile or mail, with a debtor. Larger collection agencies, of course, are usually willing and able to meet these licensing requirements, not only because they pursue debtor clients here but also to take part in soliciting new business in the state. Small out-of-state collection agencies, however--pursuing debtors who move here from elsewhere--often have trouble meeting these licensing requirements, and must either write these debts off or pay the license fee and obtain the necessary bond amount simply to contact the debtor residing in Michigan by phone, fax or mail. The bill would eliminate this problem, and follow the route taken by at least seven states thus far, by exempting collection agencies based in other states from Michigan's licensing requirements if their activities here were strictly limited to interstate communications. Thus, smaller collection firms from other states could pursue their debtor clients (which, in most cases, amount to relatively few people) here without incurring the costs that they do now under current Michigan law. If additional collection practices were planned by them in Michigan, though, current licensing requirements

would still have to be met.

***Against:***

The bill could put Michigan collection agencies at a disadvantage compared to agencies in states that now require licensing before out-of-state collectors may contact debtors in their borders. In the 25 or so states with licensing requirements for out-of-state collectors, collection agencies domiciled there could pursue clients in Michigan even though Michigan-based collection agencies could not do the same there.

***Response:***

Adopting the exemption in Michigan should help to encourage its adoption in other states that currently require out-of-state collectors to be licensed just to communicate with debtor clients residing in their respective borders.

***POSITIONS:***

The Michigan Association of Collection Agencies supports the bill. (10-15-93)

The Collection Practices Board, within the Department of Commerce, supports the bill. (10-15-93)

The Department of Commerce supports the concept of the bill, but has no formal position yet. (10-15-93)