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REGULATION OF COLLECTION AGENCIES

House Bill 4983

Sponsor: Rep. Kirk A. Profit

Committee: Commerce

Complete to 10-16-95

A SUMMARY OF HOUSE BILL 4983 AS INTRODUCED 6-16-95

The Occupational Code regulates collection agencies headquartered both in the state and outside of it, and requires them to meet certain criteria to operate in Michigan. The bill would amend the act to impose new requirements regarding record-keeping, auditing, and the keeping of deposits.

Record-keeping, audits. A collection agency currently must keep books and records of its business activities in Michigan and provide copies of this information upon request by the Department of Commerce. The bill would require a licensee located in the state to maintain its books and records in Michigan, while one licensed to do business in Michigan that was headquartered in another state could maintain its books and records in either state. Except as specified in the bill, a licensee that chose to maintain its books and records in another state would have to pay the costs of an audit by the department, and the department would have to charge expenses according to standard travel regulations of the Department of Management and Budget. However, a licensee that was located in another state could submit its own audit instead of a department-performed audit, if it was conducted by a certified public accountant who was licensed in that state and if it met the same standards as a department audit.

Depository accounts. At present, licensees must maintain a separate depository account in a bank or savings and loan association, and money collected must be deposited within three business days after its receipt. The bill would require a licensee located in Michigan to maintain its account in this state, whereas an out-of-state licensee could maintain deposits either in a Michigan-based financial institution or in one located in the state where it was headquartered. The bill also would clarify that such accounts could be maintained in a state or nationally chartered bank, savings and loan association, or credit union, or in the federally-chartered farm credit system.

Other provisions. The act currently prohibits a licensee from exercising authority on behalf of a creditor to employ the service of an attorney unless this was authorized in writing by the creditor. The bill also would prohibit a licensee from retaining an attorney to collect a claim unless specifically authorized in writing by the creditor.

Penalties. A licensed collection agency that commits any of various prohibited activities is guilty of a misdemeanor and, for a first-time violation, can be fined up to \$500, jailed for up to 90 days, or both; subsequent violations can incur fines of up to \$1,000, up to a year in jail, or both. Under the bill, a licensee not located in the state that failed to

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pay the expenses of an audit conducted by the commerce department would be subject to these penalties. The bill would also delete from the list of prohibited activities the use of unapproved forms, or alteration of forms.

Repeals. The bill would repeal a section that creates a collection practices board, and a section dealing with submission of proof for meeting license application requirements.

MCL 339.104 et al.