

HOUSE BILL No. 6237

November 5, 1998, Introduced by Rep. Profit and referred to the Committee on Regulatory Affairs.

A bill to amend 1980 PA 299, entitled
"Occupational code,"
by amending section 901 (MCL 339.901), as amended by 1981 PA 83.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 901. As used in this article:

2 (a) "Claim" or "debt" means an obligation or alleged obliga-
3 tion for the payment of money or thing of value arising out of
4 ~~an~~ EITHER OF THE FOLLOWING:

5 (i) AN expressed or implied agreement or contract for a pur-
6 chase made primarily for personal, family, or household
7 purposes.

8 (ii) A CIVIL FINE IMPOSED BY A GOVERNMENTAL UNIT FOR A TRAF-
9 FIC OR PARKING VIOLATION.

10 (b) "Collection agency" means a person directly or
11 indirectly engaged in soliciting a claim for collection or

1 collecting or attempting to collect a claim owed or due or
2 asserted to be owed or due another, or repossessing or attempting
3 to repossess a thing of value owed or due or asserted to be owed
4 or due another arising out of an expressed or implied agreement.
5 A collection agency ~~shall include~~ INCLUDES a person represent-
6 ing himself or herself as a collection or repossession agency, or
7 a person performing the activities of a collection agency, on
8 behalf of another, which are regulated by this act. A collection
9 agency shall also include a person who furnishes or attempts to
10 furnish a form or a written demand service represented to be a
11 collection or repossession technique, device, or system to be
12 used to collect or repossess claims, if the form contains the
13 name of a person other than the creditor in a manner indicating
14 that a request or demand for payment is being made by a person
15 other than the creditor even though the form directs the debtor
16 to make payment directly to the creditor rather than to the other
17 person whose name appears on the form. Collection agency also
18 includes a person who uses a fictitious name or the name of
19 another in the collection or repossession of claims to convey to
20 the debtor that a third person is collecting or repossessing or
21 has been employed to collect or repossess the claim. Collection
22 agency does not include a person whose collection activities are
23 confined and are directly related to the operation of a business
24 other than that of a collection agency such as, but not limited
25 to, the following:

1 (i) A regular employee when collecting amounts for 1
2 employer if all collection efforts are carried on in the name of
3 the employer.

4 (ii) A state or nationally chartered bank when collecting
5 its own claims.

6 (iii) A trust company when collecting its own claims.

7 (iv) A state or federally chartered savings and loan associ-
8 ation when collecting its own claims.

9 (v) A state or federally chartered credit union when col-
10 lecting its own claims.

11 (vi) A licensee under ~~Act No. 21 of the Public Acts of~~
12 ~~1939, as amended, being sections 493.1 to 493.26 of the Michigan~~
13 ~~Compiled Laws~~ THE REGULATORY LOAN ACT OF 1963, 1939 PA 21, MCL
14 493.1 TO 493.26.

15 (vii) A business licensed by this state under a regulatory
16 act in which collection activity is regulated.

17 (viii) An abstract company doing an escrow business.

18 (ix) A licensed real estate broker or salesperson if the
19 claims being handled by the broker or salesperson are related to
20 or in connection with his or her real estate business.

21 (x) A public officer or person acting under a court order.

22 (xi) An attorney handling claims and collections on behalf
23 of clients and in the attorney's own name.

24 (c) "Collection agency manager" means the individual respon-
25 sible for the operation of a collection agency.

1 (d) "Communicate" means the conveying of information
2 regarding a debt directly or indirectly to a person through any
3 medium.

4 (e) "Creditor" or "principal" means a person who offers or
5 extends credit creating a debt or a person to whom a debt is owed
6 or due or asserted to be owed or due. Creditor or principal
7 ~~shall~~ DOES not include a person who receives an assignment or
8 transfer of a debt solely for the purpose of facilitating collec-
9 tion of the debt for the assignor or transferor. In those
10 instances, the assignor or transferor of the debt ~~shall continue~~
11 ~~to be considered~~ IS the creditor or the principal for purposes
12 of this article.

13 (f) "Consumer" or "debtor" means a natural person obligated
14 or allegedly obligated to pay a debt.

15 (g) "Insolvency" means the failure of a licensee to pay
16 debts in the ordinary course of business.

17 (h) "Office" means a regular place of business where com-
18 plete records are kept of collections and claims handled by a
19 licensee.