

HOUSE BILL No. 4130

January 30, 2003, Introduced by Reps. Daniels, Woodward, Pumford, Cheeks, Phillips and Kolb and referred to the Committee on Commerce.

A bill to amend 1980 PA 299, entitled
"Occupational code,"
by amending section 915a (MCL 339.915a), as amended by 1996 PA
151.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 915a. A licensee shall not commit any of the following
2 acts:

3 (a) Listing the name of an attorney in a written or oral
4 communication, collection letter, or publication.

5 (b) Furnishing legal advice, or otherwise engaging in the
6 practice of law, or representing that the person is competent to
7 do so, or to institute a judicial proceeding on behalf of
8 another.

9 (c) Sharing quarters or office space, or having a common
10 waiting room with a practicing attorney or a lender.

1 (d) Employing or retaining an attorney to collect a claim. A
2 licensee may exercise authority on behalf of a creditor to employ
3 the service of an attorney if the creditor has specifically
4 authorized the collection agency in writing to do so and the
5 licensee's course of conduct is at all times consistent with a
6 true relationship of attorney and client between the attorney and
7 the creditor. After referral to an attorney, the creditor shall
8 be the client of the attorney, and the licensee shall not
9 represent the client in court. The licensee may act as an agent
10 of the creditor in dealing with the attorney only if the creditor
11 has specifically authorized the licensee to do so in writing.

12 (e) Demanding or obtaining a share of the compensation for
13 service performed by an attorney in collecting a claim or demand
14 or collecting or receiving a fee or other compensation from a
15 consumer for collecting a claim, other than a claim owing the
16 creditor pursuant to the provisions of the original agreement
17 between the creditor and debtor.

18 (f) Soliciting, purchasing, or receiving an assignment of a
19 claim for the sole purpose of instituting an action on the claim
20 in a court.

21 (g) Advertising or threatening to advertise for sale a claim
22 as a means of forcing payment of the claim, unless the collection
23 agency is acting as the assignee for the benefit of creditors or
24 acting under an order of a court.

25 (h) Failing to deposit money collected into the trust account
26 required to be maintained under this article.

27 (i) Commingling money collected for a client with the

1 collection agency's own general or operating funds.

2 (j) Using a part of a client's money in the conduct of a
3 collection agency's business.

4 (k) Refusing or intentionally failing to remit to a client
5 all money collected, due, and owing the client less any
6 commission owed to the licensee within 45 days after the day on
7 which the money was collected.

8 (l) Failing to give a debtor a written receipt for cash
9 payment, or other payment when specifically requested, showing
10 the amount of money received and the debt to which it was applied
11 and the name of the specific account receiving the money.

12 (m) Refusing or intentionally failing to return to a creditor
13 all original documents deposited with the claim when the claim is
14 returned, if requested. When requested by the creditor, there
15 shall be a signed agreement between the agency and the creditor
16 if any closing out fee is charged to the creditor for unpaid
17 claims returned or collection activities discontinued.

18 (n) Identifying the collection agency other than by the name
19 appearing on the license.

20 (o) Permitting an employee to use a name other than the
21 employee's own name or the assumed name registered by the
22 licensee with the department in the collection of a debt.

23 (p) Operating under a name or in a manner that implies or
24 states that the collection agency is a branch of, or associated
25 with, or has been approved or licensed by, a department of
26 federal, state, or local government, or that implies that the
27 collection agency is a credit reporting agency regularly

1 furnishing a credit report about consumers unless it is a credit
2 reporting agency.

3 (q) Accepting a check or other payment instrument postdated
4 by more than 5 days unless the debtor is notified in writing of
5 the person's intent to deposit a postdated check or instrument
6 not more than 10 nor less than 3 business days before the
7 deposit.

8 (r) Depositing or threatening to deposit a postdated check or
9 other postdated payment instrument before the date on the
10 postdated check or instrument.

11 (s) Reporting a debt of a consumer to a consumer reporting
12 agency for inclusion in the consumer's consumer report if the
13 creditor reported or intends to report that debt to the consumer
14 reporting agency. As used in this subdivision, "consumer report"
15 and "consumer reporting agency" mean those terms as defined in
16 section 603 of the fair credit reporting act, title VI of the
17 consumer credit protection act, Public Law 90-321, 15
18 U.S.C. 1681a.