

# HOUSE BILL No. 4007

January 27, 2005, Introduced by Rep. Caswell and referred to the Committee on Judiciary.

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
- 3       obligation for the payment of money or thing of value arising out
- 4       of an expressed or implied agreement or contract for a purchase
- 5       made primarily for personal, family, or household purposes.
- 6       (b) "Collection agency" means a person directly or indirectly
- 7       engaged in soliciting a claim for collection or collecting or
- 8       attempting to collect a claim owed or due or asserted to be owed or

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

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

2 (iv) A state or federally chartered savings and loan  
3 association when collecting its own claims.

4 (v) A state or federally chartered credit union when  
5 collecting its own claims.

6 (vi) A licensee under ~~Act No. 21 of the Public Acts of 1939,~~  
7 ~~as amended, being sections 493.1 to 493.26 of the Michigan Compiled~~  
8 ~~Laws— 1939 PA 21, MCL 493.1 TO 493.24.~~

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

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

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

15 (x) A public officer. ~~or~~

16 (xi) A person acting under a court order.

17 (xii) ~~(xi)~~ An attorney handling claims and collections on  
18 behalf of clients and in the attorney's own name.

19 (xiii) **A CONTRACTOR AS DEFINED IN SECTION 3 OF THE BAD CHECK**  
20 **PRETRIAL DIVERSION ACT.**

21 (c) "Collection agency manager" means the individual  
22 responsible for the operation of a collection agency.

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

25 (e) "Creditor" or "principal" means a person who offers or  
26 extends credit creating a debt or a person to whom a debt is owed  
27 or due or asserted to be owed or due. Creditor or principal shall

1 not include a person who receives an assignment or transfer of a  
2 debt solely for the purpose of facilitating collection of the debt  
3 for the assignor or transferor. In those instances, the assignor or  
4 transferor of the debt shall continue to be considered the creditor  
5 or the principal for purposes of this article.

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

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

10 (h) "Office" means a regular place of business where complete  
11 records are kept of collections and claims handled by a licensee.

12 Enacting section 1. This amendatory act does not take effect  
13 unless Senate Bill No.\_\_\_\_ or House Bill No. 4006 (request no.  
14 00036'05) of the 93rd Legislature is enacted into law.