

Act No. 560  
Public Acts of 2014  
Approved by the Governor  
January 10, 2015  
Filed with the Secretary of State  
January 15, 2015  
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**STATE OF MICHIGAN**  
**97TH LEGISLATURE**  
**REGULAR SESSION OF 2014**

Introduced by Senator Jones

# **ENROLLED SENATE BILL No. 947**

AN ACT to amend 1980 PA 299, entitled “An act to revise, consolidate, and classify the laws of this state regarding the regulation of certain occupations and to regulate certain persons and activities relative to those occupations; to create a board for each of those occupations; to establish the powers and duties of certain departments and agencies and the boards of each occupation; to provide for the promulgation of rules; to provide for certain fees; to provide for penalties and civil fines; to establish rights, relationships, and remedies of certain persons under certain circumstances; to provide immunity from certain civil liability for certain entities and certain related occupations under certain circumstances; to repeal certain parts of this act on a specific date; and to repeal certain acts and parts of acts,” by amending sections 901, 910, and 917 (MCL 339.901, 339.910, and 339.917), section 901 as amended by 1981 PA 83 and sections 910 and 917 as amended by 1996 PA 151.

*The People of the State of Michigan enact:*

Sec. 901. As used in this article:

(a) “Claim” or “debt” means an obligation or alleged obligation for the payment of money or thing of value arising out of an expressed or implied agreement or contract for a purchase made primarily for personal, family, or household purposes.

(b) “Collection agency” means a person that is directly or indirectly engaged in collecting or attempting to collect a claim owed or due or asserted to be owed or due another, or repossessing or attempting to repossess a thing of value owed or due or asserted to be owed or due another arising out of an expressed or implied agreement. Collection agency includes a person representing himself or herself as a collection or repossession agency, or a person performing the activities of a collection agency, on behalf of another that are regulated by this act. Collection agency also includes a person that furnishes or attempts to furnish a form or a written demand service represented to be a collection or repossession technique, device, or system to be used to collect or repossess claims, if the form contains the name of a person other than the creditor in a manner indicating that a request or demand for payment is being made by a person other than the creditor even though the form directs the debtor to make payment directly to the creditor rather than to the other person whose name appears on the form. Collection agency also includes a person that uses a fictitious name or the name of another in the collection or repossession of claims to convey to the debtor that a third person is collecting or repossessing or has been employed to collect or repossess the claim. Collection agency does not include a person whose collection activities are confined and are directly related to the operation of a business other than that of a collection agency such as, but not limited to, the following:

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

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

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

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

- (v) A state or federally chartered credit union when collecting its own claims.
- (vi) A licensee under the regulatory loan act, 1939 PA 21, MCL 493.1 to 493.24.
- (vii) A business licensed by this state under a regulatory act in which collection activity is regulated.
- (viii) An abstract company doing an escrow business.
- (ix) A licensed real estate broker or salesperson if the claims being handled by the broker or salesperson are related to or in connection with his or her real estate business.
- (x) A public officer or person acting under a court order.
- (xi) An attorney handling claims and collections on behalf of clients and in the attorney's own name.
- (c) "Collection agency manager" means the individual responsible for the operation of a collection agency.
- (d) "Communicate" means the conveying of information regarding a debt directly or indirectly to a person through any medium.
- (e) "Creditor" or "principal" means a person that offers or extends credit creating a debt or a person to which a debt is owed or due or asserted to be owed or due. Creditor or principal does not include a person that receives an assignment or transfer of a debt solely for the purpose of facilitating collection of the debt for the assignor or transferor. In those instances, the assignor or transferor of the debt shall continue to be considered the creditor or the principal for purposes of this article.
- (f) "Consumer" or "debtor" means a natural person obligated or allegedly obligated to pay a debt.
- (g) "Insolvency" means the failure of a licensee to pay debts in the ordinary course of business.
- (h) "Office" means a regular place of business where complete records are kept of collections and claims handled by a licensee.

Sec. 910. (1) A collection agency shall keep and use books, accounts, or records that the department requires to determine whether the collection agency is complying with this article and the rules promulgated under this article. These books, accounts, and records shall include at least all of the following:

(a) Permanent records that show the chronological sequence in which money is received and disbursed. For money received, the record shall include the date of receipt and deposit, the number of the account to which it is deposited, the name of the debtor, the name of the principal, and the amount. For disbursements, the record shall include the date, the payee, the check number, and the amount, with a corresponding debtor reference.

(b) For an agency licensee, all of the following:

(i) Records or books of accounts that include the account of each client in alphabetical order according to the names of the clients. If the licensee's books of accounting are kept in numerical order, then the licensee shall maintain an alphabetical cross index of each client corresponding with the number of the account. Each account shall reflect the true condition of each debtor's account at the end of each calendar month and shall include all of the following:

(A) The name and address of the client.

(B) The name of the debtor or debtors from whom collection was or is being made.

(C) The amount and description of each debit and each credit and date of each debit and credit.

(D) The balance due to or owing from each client.

(ii) A record and history of each claim or account for collection that shall clearly show all of the following:

(A) The name of the debtor.

(B) The principal amount of the obligation.

(C) Any other or additional amounts or items charged or collected with a description of amounts or items charged or collected.

(D) Each payment received or collected and the date of receipt or collection.

(E) The balance owing.

(c) Each receipt issued, signed by and with the name or initials of the individual who issued the receipt and the name of the issuing agency.

(2) A collection agency shall preserve the books, accounts, and records described in subsection (1) and make them or true copies of them accessible to the department for at least 3 years after making the final payment entry on an account recorded in those books, accounts, and records.

(3) Annually before May 16 a collection agency shall file a report with the department that includes any relevant information required by the department concerning the business and operations during the preceding calendar year of each licensed place of business conducted by the collection agency. The report shall be made under oath and in the form prescribed by the department.

(4) The department may require a collection agency to file a sworn financial report of the trust account the collection agency is required to maintain and may designate the information the collection agency must include in the report.

(5) The department may audit a collection agency's books, accounts, and records when determined necessary by the director.

(6) Information provided to the director under this section is exempted from disclosure except in actions commenced under this article.

(7) A collection agency that is located in this state shall maintain its books and records in this state. A collection agency that is licensed to do business in this state but is located in another state may maintain its books and records either in this state or in the state where it is located. Except as provided in subsection (8), a collection agency that chooses to maintain its books and records in another state shall pay the expenses of a compliance attestation report by the department. The department shall charge expenses in accordance with the standardized travel regulations of the department of technology, management, and budget.

(8) In place of a department audit under subsection (5), the department may permit a collection agency that is located in another state to submit to a compliance attestation report conducted by a certified public accountant who is licensed in the state in which the collection agency is located.

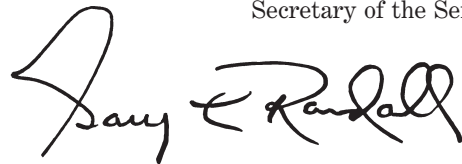
Sec. 917. A licensee that commits 1 or more of the following is subject to the penalties described in article 6:

- (a) Cancellation of a surety bond.
- (b) Failure to notify the director of any changes in corporate or partnership structure under section 906.
- (c) Failure to apply for a separate license for each place of business under section 904.
- (d) Commencing operation before issuance of a license under section 904.
- (e) Operation before the renewal of an expired license.
- (f) Failure to preserve and make accessible books, accounts, and records under section 910(2).
- (g) Failure to submit an annual report under section 910(3).
- (h) Failure to file a sworn financial report when required by the director under section 910(4).
- (i) Failure to allow an audit of books, accounts, and records when determined necessary by the director under section 910(5).
- (j) Failure to pay the expenses of an audit conducted by the department under section 910(7), if the licensee is not located in this state.
- (k) Violation of any federal or state act relating to debt collection.

This act is ordered to take immediate effect.



Secretary of the Senate



Clerk of the House of Representatives

Approved .....

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Governor