

SENATE BILL No. 656

December 10, 2015, Introduced by Senator JONES and referred to the Committee on Banking and Financial Institutions.

A bill to amend 1980 PA 299, entitled
"Occupational code,"
by amending section 901 (MCL 339.901), as amended by 2014 PA 560.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

Sec. 901. (1) 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, **SUBJECT TO**
SUBSECTION (2), repossessing or attempting to repossess a thing of
value owed or due or asserted to be owed or due another arising out

1 of an expressed or implied agreement. Collection agency includes a
2 ~~person representing himself or herself~~ **AN INDIVIDUAL WHO, IN THE**
3 **COURSE OF COLLECTING, REPOSSESSING, OR ATTEMPTING TO COLLECT OR**
4 **REPOSSESS, REPRESENTS 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 that are regulated by this~~
7 ~~act.~~ **THAT PERFORMS COLLECTION ACTIVITIES THAT ARE REGULATED UNDER**
8 **THIS ARTICLE OR BEHALF OF ANOTHER.** Collection agency also includes
9 a person that furnishes or attempts to furnish a form or a written
10 demand service represented to be a collection or repossession
11 technique, device, or system to be used to collect or repossess
12 claims, if the form contains the name of a person other than the
13 creditor in a manner ~~indicating~~ **THAT INDICATES** that a request or
14 demand for payment is being made by a person other than the
15 creditor even though the form directs the debtor to make payment
16 directly to the creditor rather than to the other person whose name
17 appears on the form. Collection agency also includes a person that
18 uses a fictitious name or the name of another in the collection or
19 repossession of claims to convey to the debtor that a third person
20 is collecting or repossessing or has been employed to collect or
21 repossess the claim. Collection agency does not include a person
22 whose collection activities are confined and are directly related
23 to the operation of a business other than that of a collection
24 agency such as, but not limited to, the following:

25 (i) A regular employee ~~when collecting~~ **WHO COLLECTS** amounts
26 for 1 employer if all collection efforts are carried on in the name
27 of the employer.

(ii) A state or nationally chartered bank ~~when collecting~~ **THAT COLLECTS** its own claims.

(iii) A trust company ~~when collecting~~ **THAT COLLECTS** its own claims.

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

(v) A state or federally chartered credit union ~~when collecting~~ **THAT COLLECTS** its own claims.

(vi) A licensee under the regulatory loan act, 1939 PA 21, MCL 493.1 to 493.24.

(vii) A business **THAT IS** licensed by this state under a regulatory act ~~in which~~ **THAT REGULATES** collection activity. ~~is regulated.~~

(viii) An abstract company ~~doing~~ **THAT IS ENGAGED IN** an escrow business.

(ix) A licensed real estate broker or salesperson if the claims ~~being handled by~~ the broker or salesperson are **COLLECTING ARE** related to or in connection with ~~his or her~~ **THE BROKER'S OR SALESPERSON'S** real estate business.

(x) A public officer or person **THAT IS** acting under a court order.

(xi) An attorney **WHO IS** handling ~~claims and collections~~ **A CLAIM OR COLLECTION** on behalf of ~~clients~~ **A CLIENT** and in the attorney's own name.

(xii) **A FORWARDING AGENCY THAT, ACTING ON BEHALF OF A CREDITOR OR LENDER, FORWARDS A CLAIM, COLLECTION, OR REPOSSESSION TO A COLLECTION AGENCY THAT IS LICENSED UNDER THIS ARTICLE.**

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

3 (d) "Communicate" means ~~the conveying of~~ **TO CONVEY** information
4 regarding a debt directly or indirectly to a person through any
5 medium.

6 (e) "Creditor" or "principal" means a person that offers or
7 extends credit creating a debt or a person to which a debt is owed
8 or due or asserted to be owed or due. Creditor or principal does
9 not include a person that receives an assignment or transfer of a
10 debt solely for the purpose of facilitating collection of the debt
11 for the assignor or transferor. In those instances, the assignor or
12 transferor of the debt shall continue to be considered the creditor
13 or the principal for purposes of this article.

14 (f) "Consumer" or "debtor" means ~~a natural person~~ **AN**
15 **INDIVIDUAL WHO IS** obligated or allegedly obligated to pay a debt.

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

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

20 **(2) AS USED IN THIS ARTICLE, "COLLECTING OR ATTEMPTING TO**
21 **COLLECT A CLAIM", "REPOSSESSING OR ATTEMPTING TO REPOSSESS A THING**
22 **OF VALUE", AND "COLLECTION ACTIVITIES" DO NOT INCLUDE ANY OF THE**
23 **FOLLOWING ACTIVITIES OF A CLAIM FORWARDER OR REMARKETER PURSUANT TO**
24 **A CONTRACT WITH A CREDITOR:**

25 **(A) FORWARDING REPOSSESSION ASSIGNMENTS ON BEHALF OF THE**
26 **CREDITOR TO A COLLECTION AGENCY THAT IS LICENSED UNDER THIS ACT FOR**
27 **REPOSSESSING OR ATTEMPTING TO REPOSSESS A THING OF VALUE OWED OR**

1 ALLEGED TO BE OWED ON A CLAIM.

2 (B) PURSUANT TO THE AUTHORIZATION OF A CREDITOR AND ON THE
3 CREDITOR'S BEHALF, PROVIDING OR PROCURING THE SERVICES OF AN
4 AUCTION OR OTHER REMARKETER IN CONNECTION WITH THE DISPOSITION OR
5 PREPARATION FOR DISPOSITION OF A THING OF VALUE THAT WAS PREVIOUSLY
6 REPOSSESSED BY A CREDITOR OR BY ANOTHER PERSON ON BEHALF OF THE
7 CREDITOR.

8 (C) COMMUNICATING WITH A CREDITOR OR THE COLLECTION AGENCY
9 REGARDING THE PERFORMANCE OF ANY OF THE ACTIVITIES DESCRIBED IN
10 SUBDIVISION (A) OR (B).

11 Enacting section 1. This amendatory act takes effect 90 days
12 after the date it is enacted into law.