

SENATE BILL No. 657

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

A bill to amend 1981 PA 70, entitled

"An act to regulate the collection practices of certain persons; to provide for the powers and duties of certain state agencies; and to provide penalties and civil fines,"

by amending section 1 (MCL 445.251).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. (1) As used in this act:

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 **THAT IS** directly ~~or~~
7 ~~indirectly engaged in soliciting a claim for collection or~~
8 collecting or attempting to collect a claim owed or due or asserted
9 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 person, arising out of an expressed or implied agreement. Collection agency includes ~~a person representing~~ **AN INDIVIDUAL WHO, IN THE COURSE OF COLLECTING, REPOSSESSING, OR ATTEMPTING TO COLLECT OR REPOSSESS, REPRESENTS** himself or herself as a collection or repossession agency, or a person ~~performing the activities of a collection agency, on behalf of another, which activities are regulated by Act No. 299 of the Public Acts of 1980, as amended, being sections 339.101 to 339.2601 of the Michigan Compiled Laws.~~ **THAT PERFORMS COLLECTION ACTIVITIES THAT ARE REGULATED UNDER ARTICLE 9 OF THE OCCUPATIONAL CODE, 1980 PA 299, MCL 339.901 TO 339.920.** Collection agency includes a person ~~who~~ **THAT** furnishes or attempts to furnish a form or a written demand service **THAT IS** 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 INDICATES** 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 includes a person ~~who~~ **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.

(c) "Communicate" means ~~the conveying of~~ **TO CONVEY** information regarding a debt directly or indirectly to a person through any

1 medium.

2 (d) "Consumer" or "debtor" means ~~a natural person~~ **AN**
3 **INDIVIDUAL WHO IS** obligated or allegedly obligated to pay a debt.

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

13 (f) "Person" means an individual, sole proprietorship,
14 partnership, association, ~~or~~ corporation, **LIMITED LIABILITY**
15 **COMPANY, OR OTHER LEGAL ENTITY.**

16 (g) "Regulated person" means a person whose collection
17 activities are confined and are directly related to the operation
18 of a business other than that of a collection agency including **ANY**
19 **OF** the following:

20 (i) A regular employee ~~when collecting~~ **WHO COLLECTS** accounts
21 for 1 employer if the collection efforts are carried on in the name
22 of the employer.

23 (ii) A state or federally chartered bank ~~when collecting~~ **THAT**
24 **COLLECTS** its own claim.

25 (iii) A trust company ~~when collecting~~ **THAT COLLECTS** its own
26 claim.

27 (iv) A state or federally chartered savings and loan

1 association ~~when collecting~~ **THAT COLLECTS** its own claim.

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

4 (vi) A licensee under ~~Act No. 21 of the Public Acts of 1939,~~
5 ~~as amended, being sections 493.1 to 493.26 of the Michigan Compiled~~
6 ~~Laws.~~ **THE REGULATORY LOAN ACT, 1939 PA 21, MCL 493.1 TO 493.24.**

7 (vii) A business **THAT IS** licensed by ~~the~~ **THIS** state under a
8 regulatory act ~~by which~~ **THAT REGULATES** collection activity. ~~is~~
9 ~~regulated.~~

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

12 (ix) A licensed real estate broker or salesperson if the claim
13 ~~being handled by the broker or salesperson~~ **IS COLLECTING** is related
14 to or in connection with the ~~broker~~ **BROKER'S** or salesperson's real
15 estate business.

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

18 (xi) An attorney **WHO IS** handling ~~claims and collections~~ **A**
19 **CLAIM OR COLLECTION** on behalf of a client and in the attorney's own
20 name.

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

26 (A) **FORWARDING REPOSSESSION ASSIGNMENTS ON BEHALF OF THE**
27 **CREDITOR TO A COLLECTION AGENCY THAT IS LICENSED UNDER THIS ACT FOR**

1 REPOSSESSING OR ATTEMPTING TO REPOSSESS A THING OF VALUE OWED OR
2 ALLEGED TO BE OWED ON A CLAIM.

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

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

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