

# HOUSE BILL No. 4658

May 24, 2017, Introduced by Rep. Webber and referred to the Committee on Financial Services.

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 2 (MCL 445.252).

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 2. **(1)** A regulated person shall not ~~commit 1 or more~~ **DO**  
2 **ANY** of the following: ~~acts:~~

3       (a) ~~Communicating~~ **COMMUNICATE** with a debtor in a misleading or  
4 deceptive manner, such as using the stationery of an attorney or  
5 credit bureau unless the regulated person is an attorney or is a  
6 credit bureau and it is disclosed that it is the collection  
7 department of the credit bureau.

8       (b) ~~Using forms or instruments which simulate~~ **USE A FORM OR**  
9 **INSTRUMENT THAT SIMULATES** the appearance of judicial process.

10       (c) ~~Using seals or printed forms~~ **USE A SEAL OR PRINTED FORM** of

1 a government agency or instrumentality.

2 (d) ~~Using forms~~ **USE A FORM** that may otherwise induce the  
3 belief that ~~they have~~ **THE FORM HAS** judicial or official sanction.

4 (e) ~~Making~~ **MAKE** an inaccurate, misleading, untrue, or  
5 deceptive statement or claim in a communication to collect a debt  
6 or ~~concealing or not revealing~~ **CONCEAL OR NOT REVEAL** the purpose of  
7 a communication ~~when it~~ **THAT** is made in connection with collecting  
8 a debt.

9 (f) ~~Misrepresenting~~ **MISREPRESENT** in a communication with a  
10 debtor 1 or more of the following:

11 (i) The legal status of a legal action being taken or  
12 threatened.

13 (ii) The legal rights of the creditor or debtor.

14 (iii) That the nonpayment of a debt will result in the  
15 debtor's arrest or imprisonment, or the seizure, garnishment,  
16 attachment, or sale of the debtor's property.

17 (iv) That ~~accounts have~~ **AN ACCOUNT HAS** been turned over to  
18 ~~innocent purchasers~~ **AN INNOCENT PURCHASER** for value.

19 (g) ~~Communicating~~ **COMMUNICATE** with a debtor without accurately  
20 disclosing the caller's identity or cause expenses to the debtor  
21 for a long distance telephone call, telegram, or other charge.

22 (h) ~~Communicating~~ **COMMUNICATE** with a debtor, except through **A**  
23 billing procedure ~~when~~ **IF** the debtor is actively represented by an  
24 attorney, the attorney's name and address are known, and the  
25 attorney has been contacted in writing by the ~~credit grantor~~  
26 **CREDITOR** or the ~~credit grantor's~~ **CREDITOR'S** representative or  
27 agent, unless the attorney representing the debtor fails to answer

1 written communication or fails to discuss the claim on its merits  
2 within 30 days after ~~receipt of~~ **THE ATTORNEY RECEIVES** the written  
3 communication.

4 (i) ~~Communicating~~ **COMMUNICATE** information relating to a  
5 debtor's indebtedness to an employer or an employer's agent unless  
6 the communication is specifically authorized in writing by ~~the~~ **THE**  
7 debtor subsequent to the forwarding of the claim for collection,  
8 the communication is in response to an inquiry initiated by the  
9 debtor's employer or the employer's agent, or the communication is  
10 for the purpose of acquiring location information about the debtor.

11 (j) ~~Using or employing, in~~ **IN** connection with collection of a  
12 claim, ~~a person~~ **USE OR EMPLOY AN INDIVIDUAL WHO IS** acting as a  
13 peace or law enforcement officer or any other officer authorized to  
14 serve legal papers.

15 (k) ~~Using or threatening~~ **USE OR THREATEN** to use physical  
16 violence in connection with collection of a claim.

17 (l) ~~Publishing, causing to be published, or threatening to~~  
18 ~~publish lists~~ **PUBLISH, CAUSE THE PUBLICATION OF, OR THREATEN TO**  
19 **PUBLISH A LIST** of debtors, except for credit reporting purposes,  
20 when in response to a specific inquiry from a prospective credit  
21 grantor about a debtor.

22 (m) ~~Using~~ **USE** a shame card ~~or~~ **OR** shame automobile ~~or~~  
23 otherwise bring to public notice that ~~the~~ **A** consumer is a debtor,  
24 except with respect to a **PENDING** legal proceeding. ~~which is~~  
25 ~~instituted.~~

26 (n) ~~Using~~ **USE** a harassing, oppressive, or abusive method to  
27 collect a debt, including causing a telephone to ring or engaging a

~~person~~ **AN INDIVIDUAL** in telephone conversation repeatedly,  
 continuously, or at unusual times or places ~~which are known to be~~  
**THAT THE REGULATED PERSON OR THE INDIVIDUAL WHO MAKES THE CALL**  
**KNOWS ARE** inconvenient to the debtor. All communications shall be  
 made from 8 a.m. to 9 p.m. unless the debtor expressly agrees in  
 writing to communications at another time. All telephone  
 communications made from 9 p.m. to 8 a.m. ~~shall be~~ **ARE** presumed to  
 be made at an inconvenient time in the absence of facts to the  
 contrary.

(o) ~~Using~~ **USE** profane or obscene language.

(p) ~~Using~~ **USE** a method **THAT IS** contrary to a postal law or  
 regulation to collect an account.

(q) ~~Failing~~ **FAIL** to implement a procedure designed to prevent  
 a violation by an employee.

(r) ~~Communicating~~ **COMMUNICATE** with a consumer regarding a debt  
 by ~~post card~~ **POSTCARD**.

(s) ~~Employing a person required to be licensed~~ **EMPLOY AN**  
**INDIVIDUAL WHO IS REQUIRED TO HOLD A LICENSE** under article 9 of Act  
~~No. 299 of the Public Acts of 1980, being sections 339.901 to~~  
~~339.916 of the Michigan Compiled Laws, THE OCCUPATIONAL CODE, 1980~~  
**PA 299, MCL 339.901 TO 339.920**, to collect a claim unless ~~that~~  
~~person~~ **HE OR SHE** is licensed under **THAT** article. ~~9 of Act No. 299~~  
~~of the Public Acts of 1980.~~

(T) **IMPLICATE A DEBTOR IN A CRIME.**

(U) **ENGAGE IN CONDUCT TO DISGRACE A DEBTOR WHILE COLLECTING A**  
**CLAIM.**

(V) **DISRUPT THE TRANQUILITY, PEACE, AND HARMONY OF A DEBTOR'S**

1 RESIDENCE BY VIOLENCE OR OTHER VERBAL OR PHYSICAL MEANS.

2 (W) INCITE THE DEBTOR TO COMMIT AN ASSAULTIVE CRIME. AS USED  
3 IN THIS SUBDIVISION, "ASSAULTIVE CRIME" MEANS THAT TERM AS DEFINED  
4 IN SECTION 9A OF CHAPTER X OF THE CODE OF CRIMINAL PROCEDURE, 1927  
5 PA 175, MCL 770.9A.

6 (2) IN ADDITION TO ANY PENALTIES UNDER SECTION 6 OR OTHERWISE  
7 PRESCRIBED BY LAW, A REGULATED PERSON THAT VIOLATES THIS SECTION IS  
8 GUILTY OF A MISDEMEANOR PUNISHABLE BY A FINE OF NOT MORE THAN  
9 \$2,500.00 OR IMPRISONMENT FOR NOT MORE THAN 1 YEAR, OR BOTH.

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