

# SENATE BILL No. 385

May 17, 2017, Introduced by Senators STAMAS and JONES and referred to the Committee on Regulatory Reform.

A bill to amend 1980 PA 299, entitled  
"Occupational code,"  
by amending section 915a (MCL 339.915a), as amended by 1996 PA 151.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 915a. A licensee shall not commit any of the following  
2       acts:

3       (a) Listing the name of an attorney in a written or oral  
4       communication, collection letter, or publication, **UNLESS THE**  
5       **ATTORNEY IS AN EMPLOYEE OF THE LICENSEE AND IS ENGAGED IN**  
6       **COLLECTING A CLAIM.**

7       (b) Furnishing legal advice, or otherwise engaging in the  
8       practice of law, or representing that the person is competent to do  
9       so, or to institute a judicial proceeding on behalf of another.

10       **THIS SUBDIVISION DOES NOT APPLY TO AN ATTORNEY WHO IS AN EMPLOYEE**  
11       **OF THE LICENSEE.**

1 (c) Sharing quarters or office space, or having a common  
2 waiting room with a ~~practicing attorney or a lender.~~ **LENDER OR WITH**  
3 **A PRACTICING ATTORNEY WHO IS NOT AN EMPLOYEE OF THE LICENSEE.**

4 (d) ~~Employing or retaining~~ **RETAINING** an attorney to collect a  
5 claim. A licensee may exercise authority on behalf of a creditor to  
6 ~~employ the service of~~ **RETAIN** an attorney if the creditor has  
7 specifically authorized the collection agency in writing to do so  
8 and the licensee's course of conduct is at all times consistent  
9 with a true relationship of attorney and client between the  
10 attorney and the creditor. After referral to an attorney, the  
11 creditor ~~shall be~~ **IS** the client of the attorney, and the licensee  
12 shall not represent the client in court. The licensee may act as an  
13 agent of the creditor in dealing with the attorney only if the  
14 creditor has specifically authorized the licensee to do so in  
15 writing. **THIS SUBDIVISION DOES NOT APPLY TO A LICENSEE THAT EMPLOYS**  
16 **AN ATTORNEY, OR TO AN ATTORNEY WHO IS EMPLOYED BY A LICENSEE, TO**  
17 **ENGAGE IN THE COLLECTION OF CLAIMS.**

18 (e) Demanding or obtaining a share of the compensation for  
19 service performed by an attorney in collecting a claim or demand,  
20 or collecting or receiving a fee or other compensation from a  
21 consumer for collecting a claim, ~~other than a claim owing the~~  
22 ~~creditor pursuant to the provisions~~ **UNLESS THE CLAIM IS OWED TO THE**  
23 **CREDITOR UNDER THE TERMS** of the original agreement between the  
24 creditor and debtor. **THIS SUBDIVISION DOES NOT APPLY TO A LICENSEE**  
25 **THAT EMPLOYS AN ATTORNEY, OR TO AN ATTORNEY WHO IS EMPLOYED BY A**  
26 **LICENSEE, TO ENGAGE IN THE COLLECTION OF CLAIMS.**

27 (f) Soliciting, purchasing, or receiving an assignment of a

1 claim for the sole purpose of instituting an action on the claim in  
2 a court.

3 (g) Advertising or threatening to advertise for sale a claim  
4 as a means of forcing payment of the claim, unless the collection  
5 agency is acting as the assignee for the benefit of creditors or  
6 acting under an order of a court.

7 (h) Failing to deposit money collected into the trust account  
8 required ~~to be maintained~~ under this article.

9 (i) Commingling money collected for a client with the  
10 collection agency's own general or operating funds.

11 (j) Using a part of a client's money in the conduct of a  
12 collection agency's business.

13 (k) Refusing or intentionally failing to remit to a client all  
14 money collected, due, and owing the client, less any commission  
15 owed to the licensee, within 45 days after the day on which the  
16 money ~~was~~ **IS** collected.

17 (l) Failing to give a debtor a written receipt for cash  
18 payment, or **FOR ANY** other payment ~~when~~ **IF A RECEIPT IS** specifically  
19 requested, showing the amount of money received, ~~and~~ the debt to  
20 which ~~it was applied~~ **THE LICENSEE IS APPLYING THE MONEY**, and the  
21 name of the specific account receiving the money.

22 (m) Refusing or intentionally failing to return to a creditor  
23 all original documents deposited with the claim when the claim is  
24 returned, if requested. ~~When requested by the creditor, there shall~~  
25 ~~be a signed agreement between the agency and the creditor if any~~ **IF**  
26 **THE LICENSEE CHARGES A** closing out fee ~~is charged~~ to the creditor  
27 for **RETURNING** unpaid claims ~~returned~~ or **DISCONTINUING** collection

1 activities, discontinued. **THE LICENSEE SHALL ENTER INTO A WRITTEN**  
2 **AGREEMENT WITH THE CREDITOR CONCERNING THOSE FEES IF REQUESTED BY**  
3 **THE CREDITOR.**

4 (n) Identifying the collection agency other than by the name  
5 ~~appearing~~ **THAT APPEARS** on the license.

6 (o) Permitting an employee to use a name other than the  
7 employee's own name or the assumed name registered by the licensee  
8 with the department in the collection of a debt.

9 (p) Operating under a name or in a manner that implies or  
10 states that the collection agency is a branch of, or associated  
11 with, or has been approved or licensed by, a department of federal,  
12 state, or local government, or that implies that the collection  
13 agency is a credit reporting agency **THAT** regularly ~~furnishing a~~  
14 ~~credit report~~ **PROVIDES CREDIT REPORTS** about consumers unless it is  
15 a credit reporting agency.

16 (q) Accepting a check or other payment instrument postdated by  
17 more than 5 days unless the debtor is notified in writing of the  
18 person's intent to deposit a postdated check or instrument not more  
19 than 10 nor ~~less~~ **FEWER** than 3 business days before the deposit.

20 (r) Depositing or threatening to deposit a postdated check or  
21 other postdated payment instrument before the date on the postdated  
22 check or instrument.

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