

Act No. 197  
Public Acts of 2017  
Approved by the Governor  
December 13, 2017  
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December 13, 2017  
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**STATE OF MICHIGAN  
99TH LEGISLATURE  
REGULAR SESSION OF 2017**

Introduced by Senators Stamas and Jones

# **ENROLLED SENATE BILL No. 385**

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 section 915a (MCL 339.915a), as amended by 1996 PA 151.

*The People of the State of Michigan enact:*

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

(a) Listing the name of an attorney in a written or oral communication, collection letter, or publication in an attempt to collect a debt on behalf of a person other than the licensee or an affiliate of the licensee. This subdivision does not apply if the attorney is an employee of the licensee and is engaged in collecting claims owned by the licensee or an affiliate of the licensee.

(b) Furnishing legal advice, or otherwise engaging in the practice of law, or representing that the person is competent to do so, or to institute a legal action on behalf of another person. This subdivision does not apply to an attorney who is an employee of the licensee and is furnishing legal advice to or representing the interests of the licensee or an affiliate of the licensee. However, an attorney who is an employee of a licensee may not institute a legal action to collect a claim unless the claim is owned by the licensee or an affiliate of the licensee.

(c) Sharing quarters or office space with a lender or with a practicing attorney who is not an employee of the licensee. This subdivision does not prohibit a licensee from occupying a separate space in the same building in which a practicing attorney has office space or sharing a common waiting area with a practicing attorney.

(d) Employing or retaining an attorney to collect a claim, unless the claim is owned by the licensee or an affiliate of the licensee. However, a licensee may exercise authority on behalf of a creditor to retain an attorney if the creditor has specifically authorized the collection agency in writing to do so and the licensee's course of conduct is at all times consistent with a true relationship of attorney and client between the attorney and the creditor. After referral to an attorney, the creditor is the client of the attorney, and the licensee shall not represent the client in court. The licensee may act as an agent of the creditor in dealing with the attorney only if the creditor has specifically authorized the licensee to do so in writing.

(e) Demanding or obtaining a share of the compensation for service performed by an attorney in collecting a claim or demand, or collecting or receiving a fee or other compensation from a consumer for collecting a claim, other than a claim owed to the creditor under the provisions of the original agreement between the creditor and debtor.

(f) Soliciting, purchasing, or receiving an assignment of a claim for the sole purpose of instituting an action on the claim in a court.

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

(h) Failing to deposit money collected into the trust account required under this article.

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

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

(k) Refusing or intentionally failing to remit to a client all money collected, due, and owing the client, less any commission owed to the licensee, within 45 days after the day on which the money is collected.

(l) Failing to give a debtor a written receipt for cash payment, or for any other payment if a receipt is specifically requested, showing the amount of money received, the debt to which the licensee is applying the money, and the name of the specific account receiving the money.

(m) Refusing or intentionally failing to return to a creditor all original documents deposited with the claim when the claim is returned, if requested. If the licensee charges a closing out fee to the creditor for returning unpaid claims or discontinuing collection activities, the licensee shall enter into a written agreement with the creditor concerning those fees if requested by the creditor.

(n) Identifying the collection agency other than by the name that appears on the license.

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

(p) Operating under a name or in a manner that implies or states that the collection agency is a branch of, or associated with, or has been approved or licensed by, a department of federal, state, or local government, or that implies that the collection agency is a credit reporting agency that regularly provides credit reports about consumers unless it is a credit reporting agency.

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

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

(2) This section shall not be construed as creating an exception to section 1 of 1917 PA 354, MCL 450.681, or section 916 of the revised judicature act of 1961, 1961 PA 236, MCL 600.916.

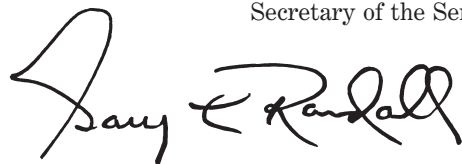
(3) As used in this section, "affiliate" means that term as defined in section 776 of the business corporation act, 1972 PA 284, MCL 450.1776.

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

This act is ordered to take immediate effect.



Secretary of the Senate



Clerk of the House of Representatives

Approved .....

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Governor