

OCCUPATIONAL CODE (EXCERPT)

Act 299 of 1980

ARTICLE 9

339.901 Definitions.

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 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 of an expressed or implied agreement. Collection agency includes 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 that performs collection activities that are regulated under this article on behalf of another. Collection agency also includes a person that furnishes or attempts to furnish a form or a written demand service 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 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 also includes a person 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. Collection agency does not include a person whose collection activities are confined and are directly related to the operation of a business other than that of a collection agency such as, but not limited to, the following:

(i) A regular employee who collects amounts for 1 employer if all collection efforts are carried on in the name of the employer.

(ii) A state or nationally chartered bank that collects its own claims.

(iii) A trust company that collects its own claims.

(iv) A state or federally chartered savings and loan association that collects its own claims.

(v) A state or federally chartered credit union 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 that regulates collection activity.

(viii) An abstract company that is engaged in an escrow business.

(ix) A licensed real estate broker or salesperson if the claims the broker or salesperson are collecting are related to or in connection with 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 a claim or collection on behalf of 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 only to a licensed collection agency that is licensed under this article or to a person whose collection activities are excluded or exempted from licensing under this article.

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

(d) "Communicate" means to convey information regarding a debt directly or indirectly to a person through any medium.

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

(f) "Consumer" or "debtor" means an individual who is obligated or allegedly obligated to pay a debt.

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

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

(2) As used in this article, "collecting or attempting to collect a claim", "repossessing or attempting to repossess a thing of value", and "collection activities" do not include any of the following activities of a claim forwarder or remarketer pursuant to a contract with a creditor:

(a) Forwarding repossession assignments on behalf of the creditor to a collection agency that is licensed

under this act for repossessing or attempting to repossess a thing of value owed or alleged to be owed on a claim.

(b) Pursuant to the authorization of a creditor and on the creditor's behalf, providing or procuring the services of an auction or other remarketer in connection with the disposition or preparation for disposition of a thing of value that was previously repossessed by a creditor or by another person on behalf of the creditor.

(c) Communicating with a creditor or the collection agency regarding the performance of any of the activities described in subdivision (a) or (b).

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980;—Am. 1981, Act 83, Imd. Eff. July 1, 1981;—Am. 2014, Act 560, Imd. Eff. Jan. 15, 2015;—Am. 2016, Act 167, Eff. Sept. 7, 2016.

Compiler's note: For transfer of powers and duties of certain occupational functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

Popular name: Act 299

339.902 Collection practices board; creation.

Sec. 902. A collection practices board is created.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980.

Popular name: Act 299

339.903 Pretended purchase or assignment of account; applicability of article.

Sec. 903. This article applies to a person who, by a device, subterfuge, or pretense, makes a pretended purchase or takes a pretended assignment of an account from another person to evade this article.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980.

Popular name: Act 299

339.904 Collection agency; license required for each place of business; exceptions to licensing requirement of subsection (1); qualifications of applicant.

Sec. 904. (1) Except as otherwise provided in this article, a person shall not operate a collection agency or commence in the business of a collection agency without first applying for and obtaining a license under this article from the department for each place of business.

(2) A person is not subject to the licensing requirement of subsection (1) if the person's collection activities in this state are limited to interstate communications. This subsection does not exempt a person from other requirements of law that regulate collection practices.

(3) The department may require financial statements, references, or other information it considers necessary to determine the qualifications of the applicant, including but not limited to, the names, addresses, and references of each member of a partnership or of each officer, director, or shareholder holding 10% or more of the outstanding shares of the agency.

(4) Each individual, partner of a partnership, or officer or director of a corporation that is an applicant shall be not less than 18 years of age, be of good moral character, and have the financial responsibility, reputation, and experience such as to command the confidence of the community and to warrant the belief that the business will be operated lawfully, honestly, and fairly.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980;—Am. 1981, Act 83, Imd. Eff. July 1, 1981;—Am. 1988, Act 463, Eff. Sept. 1, 1989;—Am. 1994, Act 143, Eff. Mar. 30, 1995.

Popular name: Act 299

339.905 Repealed. 1988, Act 463, Eff. Sept. 1, 1989.

Compiler's note: The repealed section pertained to licensing of collection agency.

Popular name: Act 299

339.906 Collection agency; license nontransferable; notification of changes in corporate structure, partnership, name, or address.

Sec. 906. A collection agency license is not transferable to another person or location. Notification of changes in the corporate structure, partnership, name, or address shall be submitted in writing within 30 days after the date of the change.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980;—Am. 1981, Act 83, Imd. Eff. July 1, 1981;—Am. 1988, Act 463, Eff. Sept. 1, 1989.

Popular name: Act 299

339.907 Corporate surety or cash bond; action on bond; aggregate liability; cancellation of bond.

Sec. 907. The department shall require a collection agency to file and maintain in force for each license a corporate surety or a cash bond conditioned upon the faithful accounting of all money collected upon accounts entrusted to the collection agency in a form prescribed by the department in a sum the department considers necessary, but for not less than \$5,000.00 nor more than \$50,000.00. The bond shall be for the benefit of a person damaged by the wrongful taking of money collected by the agency or failure of the collection agency to report or remit proceeds of collections made. A person injured may bring an action upon the bond. The aggregate liability to all injured persons shall not exceed the sum of the bond. The surety on the bond shall have the right to cancel the bond upon giving 30 days' written notice to the department and after that date shall be relieved of liability for a breach of condition occurring after the effective date of the cancellation. An action on a bond shall not be commenced after the expiration of 1 year from the effective date of cancellation of the bond.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980;—Am. 1981, Act 83, Imd. Eff. July 1, 1981.

Popular name: Act 299

339.908 "Owner manager" defined; personal supervision of collection agency by licensed collection agency manager or owner manager; notice; limitation.

Sec. 908. (1) As used in this section, "owner manager" means a person who does all of the following:

(a) Obtains a license under section 904 as an individual, a partner in a partnership, or an officer of a corporation.

(b) Meets all the requirements specified in section 911(2).

(c) Personally supervises an office of the collection agency for which he or she obtains a license under section 904.

(2) A collection agency shall not engage in the collection agency business unless each collection agency office is under the personal supervision of a licensed collection agency manager or an owner manager. An owner manager shall not be required to be licensed as a collection agency manager. An out of state collection agency which initiates collection activity from within this state shall be required to be under the personal supervision of a licensed collection agency manager or owner manager.

(3) A collection agency shall notify the department in writing of the person responsible for the operation of each office. The notification shall be made not more than 30 days after the person assumes the responsibility.

(4) A person shall not personally supervise more than 1 office.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980;—Am. 1981, Act 83, Imd. Eff. July 1, 1981;—Am. 1984, Act 20, Imd. Eff. Mar. 6, 1984.

Popular name: Act 299

339.909 Separate trust account; maintenance by collection agency; designation as trust account; disbursements and withdrawals.

Sec. 909. (1) A collection agency shall maintain a separate trust account in which all money collected under this article by the collection agency shall be deposited within 3 banking days after receipt. The trust account shall be established in 1 of the following institutions:

(a) A state or nationally chartered bank.

(b) A state or federally chartered savings and loan association or savings bank.

(c) A state or federally chartered credit union.

(2) A collection agency that is located in this state shall maintain its trust account in this state. A collection agency that is located in any other state may maintain its trust account in this state or in the state in which the collection agency is located provided that the account is maintained solely for money collected under this article.

(3) The trust account shall be identified and distinguished from the collection agency's personal or general checking or other depository account and shall be designated as a trust account. The trust account shall always contain sufficient funds to pay money due or owing to the client less money owed to the licensee by the client. Except as provided in this section, a disbursement may not be made from the account except to a client for money owed to the client or to pay costs advanced for a client. Periodically, the collection agency may withdraw from the trust account money that has accrued to the collection agency from a collection deposited or from an adjustment resulting from costs advanced and payments made directly to clients.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980;—Am. 1981, Act 83, Imd. Eff. July 1, 1981;—Am. 1996, Act 151, Imd. Eff. Mar. 25, 1996.

339.910 Books, accounts, and records; use; preservation; accessibility; annual report; financial report of trust account; audit; information provided to director exempt from disclosure; exception; compliance attestation report.

Sec. 910. (1) A collection agency shall keep and use books, accounts, or records that the department requires to determine whether the collection agency is complying with this article and the rules promulgated under this article. These books, accounts, and records shall include at least all of the following:

(a) Permanent records that show the chronological sequence in which money is received and disbursed. For money received, the record shall include the date of receipt and deposit, the number of the account to which it is deposited, the name of the debtor, the name of the principal, and the amount. For disbursements, the record shall include the date, the payee, the check number, and the amount, with a corresponding debtor reference.

(b) For an agency licensee, all of the following:

(i) Records or books of accounts that include the account of each client in alphabetical order according to the names of the clients. If the licensee's books of accounting are kept in numerical order, then the licensee shall maintain an alphabetical cross index of each client corresponding with the number of the account. Each account shall reflect the true condition of each debtor's account at the end of each calendar month and shall include all of the following:

(A) The name and address of the client.

(B) The name of the debtor or debtors from whom collection was or is being made.

(C) The amount and description of each debit and each credit and date of each debit and credit.

(D) The balance due to or owing from each client.

(ii) A record and history of each claim or account for collection that shall clearly show all of the following:

(A) The name of the debtor.

(B) The principal amount of the obligation.

(C) Any other or additional amounts or items charged or collected with a description of amounts or items charged or collected.

(D) Each payment received or collected and the date of receipt or collection.

(E) The balance owing.

(c) Each receipt issued, signed by and with the name or initials of the individual who issued the receipt and the name of the issuing agency.

(2) A collection agency shall preserve the books, accounts, and records described in subsection (1) and make them or true copies of them accessible to the department for at least 3 years after making the final payment entry on an account recorded in those books, accounts, and records.

(3) Annually before May 16 a collection agency shall file a report with the department that includes any relevant information required by the department concerning the business and operations during the preceding calendar year of each licensed place of business conducted by the collection agency. The report shall be made under oath and in the form prescribed by the department.

(4) The department may require a collection agency to file a sworn financial report of the trust account the collection agency is required to maintain and may designate the information the collection agency must include in the report.

(5) The department may audit a collection agency's books, accounts, and records when determined necessary by the director.

(6) Information provided to the director under this section is exempted from disclosure except in actions commenced under this article.

(7) A collection agency that is located in this state shall maintain its books and records in this state. A collection agency that is licensed to do business in this state but is located in another state may maintain its books and records either in this state or in the state where it is located. Except as provided in subsection (8), a collection agency that chooses to maintain its books and records in another state shall pay the expenses of a compliance attestation report by the department. The department shall charge expenses in accordance with the standardized travel regulations of the department of technology, management, and budget.

(8) In place of a department audit under subsection (5), the department may permit a collection agency that is located in another state to submit to a compliance attestation report conducted by a certified public accountant who is licensed in the state in which the collection agency is located.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980;—Am. 1981, Act 83, Imd. Eff. July 1, 1981;—Am. 1996, Act 151, Imd. Eff. Mar. 25, 1996;—Am. 2014, Act 560, Imd. Eff. Jan. 15, 2015.

Popular name: Act 299

339.911 Collection agency manager's license or collection agency license; requirements.

Sec. 911. The department shall issue a collection agency manager's license or a collection agency license to an individual who meets all of the following requirements:

- (a) Has a high school diploma or demonstrates to the satisfaction of the department that the applicant possesses the equivalent of a high school education.
- (b) Has had at least 6 months of full-time experience in the collection of accounts.
- (c) Has passed the examination approved by the department.
- (d) Is at least 18 years of age.
- (e) Is of good moral character.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980;—Am. 1981, Act 83, Imd. Eff. July 1, 1981;—Am. 1988, Act 463, Eff. Sept. 1, 1989

Popular name: Act 299

339.912 Applicant for collection agency manager's license; written examination.

Sec. 912. An applicant for a collection agency manager's license shall take a written examination developed by the department to test the applicant's knowledge of the collection agency business, collection practices, customs and ethics, and the laws and rules relating to the operations of collection agencies.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980;—Am. 1996, Act 151, Imd. Eff. Mar. 25, 1996.

Popular name: Act 299

339.913 Collection agency manager's license; display.

Sec. 913. A collection agency manager's license shall be displayed on the premises where licensed business or activity is conducted.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980;—Am. 1988, Act 463, Eff. Sept. 1, 1989.

Popular name: Act 299

339.914 Repealed. 1996, Act 151, Imd. Eff. Mar. 25, 1996.

Compiler's note: The repealed section pertained to proof of applicant meeting qualification requirements.

Popular name: Act 299

339.915 Licensee; prohibited acts.

Sec. 915. A licensee shall not commit 1 or more of the following acts:

- (a) Communicating with a debtor in a misleading or deceptive manner, such as using the stationery of an attorney or the stationery of a credit bureau unless it is disclosed that it is the collection department of the credit bureau.
- (b) Using forms or instruments which simulate the appearance of judicial process.
- (c) Using seals or printed forms of a government agency or instrumentality.
- (d) Using forms that may otherwise induce the belief that they have judicial or official sanction.
- (e) Making an inaccurate, misleading, untrue, or deceptive statement or claim in a communication to collect a debt or concealing or not revealing the purpose of a communication when it is made in connection with collecting a debt.
- (f) Misrepresenting in a communication with a debtor any of the following:
 - (i) The legal status of a legal action being taken or threatened.
 - (ii) The legal rights of the creditor or debtor.
 - (iii) That the nonpayment of a debt will result in the debtor's arrest or imprisonment, or the seizure, garnishment, attachment, or sale of the debtor's property.
 - (iv) That accounts have been turned over to innocent purchasers for value.
- (g) Communicating with a debtor without accurately disclosing the caller's identity or cause expenses to the debtor for a long distance telephone call, telegram, or other charge.
- (h) Communicating with a debtor, except through billing procedure, when the debtor is actively represented by an attorney, the attorney's name and address are known, and the attorney has been contacted in writing by the credit grantor or the credit grantor's representative or agent, unless the attorney representing the debtor fails to answer written communication or fails to discuss the claim on its merits within 30 days after receipt of the written communication.
- (i) Communicating information relating to a debtor's indebtedness to an employer or an employer's agent unless the communication is specifically authorized in writing by the debtor subsequent to the forwarding of the claim for collection, the communication is in response to an inquiry initiated by the debtor's employer or

the employer's agent, or the communication is for the purpose of acquiring location information about the debtor.

(j) Using or employing, in connection with collection of a claim, a person acting as a peace or law enforcement officer or any other officer authorized to serve legal papers.

(k) Using or threatening to use physical violence in connection with collection of a claim.

(l) Publishing, causing to be published, or threatening to publish lists of debtors, except for credit reporting purposes when in response to a specific inquiry from a prospective credit grantor about a debtor.

(m) Using a shame card, shame automobile, or otherwise bring to public notice that the consumer is a debtor, except with respect to a legal proceeding which is instituted.

(n) Using a harassing, oppressive, or abusive method to collect a debt, including causing a telephone to ring or engaging a person in telephone conversation repeatedly, continuously, or at unusual times or places which are known to be 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 presumed to be made at an inconvenient time in the absence of facts to the contrary.

(o) Using profane or obscene language.

(p) Using a method contrary to a postal law or regulation to collect an account.

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

(r) Communicating with a consumer regarding a debt by postcard.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980;—Am. 1981, Act 83, Imd. Eff. July 1, 1981.

Compiler's note: In subdivision (e), "communciation" evidently should read "communication."

Popular name: Act 299

339.915a Licensee; additional prohibited acts; section construed; "affiliate" defined.

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 judiciary 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.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980;—Am. 1981, Act 83, Imd. Eff. July 1, 1981;—Am. 1996, Act 151, Imd. Eff. Mar. 25, 1996;—Am. 2017, Act 197, Eff. Mar. 13, 2018.

Popular name: Act 299

339.916 Action for damages or other equitable relief; recovery; civil penalty; attorney's fees and court costs.

Sec. 916. (1) A person who suffers injury, loss, or damage, or from whom money was collected by the use of a method, act, or practice in violation of this article or rules promulgated under this article, may bring an action for damages or other equitable relief.

(2) If the court finds for the petitioner, recovery shall be in the amount of actual damages or \$50.00, whichever is greater. If the court finds that the method, act, or practice was a wilful violation, it may award a civil penalty of not less than 3 times the actual damages, or \$150.00, whichever is greater and shall award reasonable attorney's fees and court costs incurred in connection with the action.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980.

Popular name: Act 299

339.917 Conduct of licensee subject to penalties.

Sec. 917. A licensee that commits 1 or more of the following is subject to the penalties described in article 6:

- (a) Cancellation of a surety bond.
- (b) Failure to notify the director of any changes in corporate or partnership structure under section 906.
- (c) Failure to apply for a separate license for each place of business under section 904.
- (d) Commencing operation before issuance of a license under section 904.
- (e) Operation before the renewal of an expired license.
- (f) Failure to preserve and make accessible books, accounts, and records under section 910(2).
- (g) Failure to submit an annual report under section 910(3).
- (h) Failure to file a sworn financial report when required by the director under section 910(4).
- (i) Failure to allow an audit of books, accounts, and records when determined necessary by the director under section 910(5).
- (j) Failure to pay the expenses of an audit conducted by the department under section 910(7), if the licensee is not located in this state.
- (k) Violation of any federal or state act relating to debt collection.

History: Add. 1981, Act 83, Imd. Eff. July 1, 1981;—Am. 1996, Act 151, Imd. Eff. Mar. 25, 1996;—Am. 2014, Act 560, Imd. Eff. Jan. 15, 2015.

Popular name: Act 299

339.918 Communication with consumer; notice; effect of disputing validity of debt; verification of debt; failure to dispute validity of debt.

Sec. 918. (1) Within 5 days after the initial communication with a consumer in connection with a collection of a debt, a collection agency shall send the consumer, unless the following information is contained in the initial communication or the consumer has paid the debt, a written notice containing all of the following information:

- (a) The amount of the debt owed.
- (b) The date the communication was sent to the debtor.
- (c) The name of the creditor to whom the debt is owed.

(d) A statement specifying that unless the consumer, within 30 days after receipt of this notice, disputes the validity of the debt, or a portion of the debt, the debt will be assumed to be valid.

(e) A statement specifying that, if the consumer notifies the collection agency in writing within 30 days after receipt of this notice, that the debt, or any portion of the debt, is disputed, the collection agency shall obtain verification of the debt or a copy of a judgment against the consumer and that a copy of the verification or judgment shall be mailed to the consumer by the collection agency.

(2) If the consumer notifies the collection agency in writing, within 30 days after receiving the written notice, that the debt, or any portion of the debt, is disputed, collection of the debt or any disputed portion of the debt shall cease until the collection agency obtains verification of the debt and a copy of the verification or judgment is mailed to the consumer by the collection agency. Verification of the debt or any disputed portion of the debt shall include the number and amount of previously made payments and the name and address of the original creditor, if different from the current creditor, or a copy of the judgment against the debtor.

(3) The failure of a consumer to dispute the validity of a debt under this section shall not be construed as an admission of liability by the consumer.

History: Add. 1981, Act 83, Imd. Eff. July 1, 1981.

Popular name: Act 299

339.919 Communication with person other than debtor; location information.

Sec. 919. (1) A collection agency communicating with any person other than the debtor, for the purpose of acquiring location information about the debtor, shall state all of the following:

- (a) The name of the individual seeking the location information.
- (b) Whether the purpose of the communication is for confirmation or correction of location information about the debtor.

(2) For purposes of this article, location information shall consist only of a debtor's place of abode and place of employment and the telephone number at each place.

History: Add. 1981, Act 83, Imd. Eff. July 1, 1981.

Popular name: Act 299

339.920 Taking possession of assets, books, and records of licensee for purpose of liquidating business or other relief; application for court order; notice.

Sec. 920. If the department determines that a licensee is insolvent or has collected accounts, but failed to remit money due a claimant or forwarded money due a claimant within 45 days after the day of collection, or if the license of a collection agency has expired or been suspended or revoked, the department may apply to the circuit court for the county in which the main office of the agency is located for an order authorizing the director to take possession of the assets, books, and records of the licensee for the purpose of liquidating the business and for such other relief as the nature of the case and the interests of the claimants or aggrieved consumers require. The application for an order following the expiration, suspension, or revocation of a license shall not be made until after 10 days' notice to the licensee or former licensee.

History: Add. 1981, Act 83, Imd. Eff. July 1, 1981.

Popular name: Act 299