

HOUSE BILL No. 5996

September 12, 1990, Introduced by Rep. Profit and referred to the Committee on Consumers.

A bill to amend section 2 of Act No. 70 of the Public Acts of 1981, 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,"

being section 445.252 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 2 of Act No. 70 of the Public Acts of
2 1981, being section 445.252 of the Michigan Compiled Laws, is
3 amended to read as follows:

4 Sec. 2. A regulated person shall not commit 1 or more of
5 the following acts:

6 (a) Communicating with a debtor in a misleading or deceptive
7 manner, such as using the stationery of an attorney or credit
8 bureau unless the regulated person is an attorney or is a credit

1 bureau and it is disclosed that it is the collection department
2 of the credit bureau.

3 (b) Using forms or instruments which simulate the appearance
4 of judicial process.

5 (c) Using seals or printed forms of a government agency or
6 instrumentality.

7 (d) Using forms that may otherwise induce the belief that
8 they have judicial or official sanction.

9 (e) Making an inaccurate, misleading, untrue, or deceptive
10 statement or claim in a communication to collect a debt or con-
11 cealing or not revealing the purpose of a communication when it
12 is made in connection with collecting a debt.

13 (f) Misrepresenting in a communication with a debtor 1 or
14 more of the following:

15 (i) The legal status of a legal action being taken or
16 threatened.

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

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

21 (iv) That accounts have been turned over to innocent pur-
22 chasers for value.

23 (g) Communicating with a debtor without accurately disclos-
24 ing the caller's identity or cause expenses to the debtor for a
25 long distance telephone call, telegram, or other charge.

26 (h) Communicating with a debtor, except through billing
27 procedure when the debtor is actively represented by an attorney,

1 the attorney's name and address are known, and the attorney has
2 been contacted in writing by the credit grantor or the credit
3 grantor's representative or agent, unless the attorney represent-
4 ing the debtor fails to answer written communication or fails to
5 discuss the claim on its merits within 30 days after receipt of
6 the written communication.

7 (i) Communicating information relating to a debtor's indebt-
8 edness to ~~an~~ A DEBTOR'S employer or an employer's agent unless
9 the communication is specifically authorized in writing by the
10 debtor subsequent to the forwarding of the claim for collection,
11 the communication is in response to an inquiry initiated by the
12 debtor's employer or the employer's agent, or the communication
13 is for the purpose of acquiring location information about the
14 debtor.

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

18 (k) Using or threatening to use physical violence in connec-
19 tion with collection of a claim.

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

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

1 (n) Using a harassing, oppressive, or abusive method to
2 collect a debt, including causing a telephone to ring or engaging
3 a person in telephone conversation repeatedly, continuously, or
4 at unusual times or places which are known to be inconvenient to
5 the debtor. All communications shall be made from 8 a.m. to 9
6 p.m. unless the debtor expressly agrees in writing to communica-
7 tions at another time. All telephone communications made from 9
8 p.m. to 8 a.m. shall be presumed to be made at an inconvenient
9 time in the absence of facts to the contrary.

10 (o) Using profane or obscene language.

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

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

15 (r) Communicating with a consumer regarding a debt by ~~post~~
16 ~~card~~ POSTCARD.

17 (s) Employing a person required to be licensed under article
18 9 of THE OCCUPATIONAL CODE, Act No. 299 of the Public Acts of
19 1980, being sections 339.901 to ~~339.916~~ 339.920 of the Michigan
20 Compiled Laws, to collect a claim unless that person is licensed
21 under article 9 of Act No. 299 of the Public Acts of 1980.

22 (T) REFERRING TO A NAME DIFFERENT FROM THE NAME OF AN ACTUAL
23 CREDITOR OR PRINCIPAL WHEN COMMUNICATING A CLAIM OR DEBT TO A
24 CONSUMER REPORTING AGENCY AS DEFINED IN THE FAIR CREDIT REPORTING
25 ACT, TITLE VI OF PUBLIC LAW 90-321, 15 U.S.C. 1681-1681t.

1 Section 2. This amendatory act shall not take effect unless
2 Senate Bill No. _____ or House Bill No. 5997 (request
3 no. 05909'90 a) of the 85th Legislature is enacted into law.