

HOUSE BILL No. 4663

May 8, 2003, Introduced by Reps. Caswell, Milosch, Drolet, Acciavatti, Emmons, Bradstreet, Tabor, Casperson, Pastor, LaJoy, Voorhees, Hager, Ruth Johnson, Hart, Middaugh, Woronchak, Newell, Brandenburg, Hummel, Nofs and Palmer and referred to the Committee on Criminal Justice.

A bill to amend 1980 PA 299, entitled
"Occupational code,"
by amending section 901 (MCL 339.901), as amended by 1981 PA 83.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 901. As used in this article:

2 (a) "Claim" or "debt" means an obligation or alleged
3 obligation for the payment of money or thing of value arising out
4 of an expressed or implied agreement or contract for a purchase
5 made primarily for personal, family, or household purposes.

6 (b) "Collection agency" means a person directly or indirectly
7 engaged in soliciting a claim for collection or collecting or
8 attempting to collect a claim owed or due or asserted to be owed
9 or due another, or repossessing or attempting to repossess a
10 thing of value owed or due or asserted to be owed or due another
11 arising out of an expressed or implied agreement. A collection

1 agency shall include a person representing himself or herself as
2 a collection or repossession agency, or a person performing the
3 activities of a collection agency, on behalf of another, which
4 are regulated by this act. A collection agency shall also
5 include a person who furnishes or attempts to furnish a form or a
6 written demand service represented to be a collection or
7 repossession technique, device, or system to be used to collect
8 or repossess claims, if the form contains the name of a person
9 other than the creditor in a manner indicating that a request or
10 demand for payment is being made by a person other than the
11 creditor even though the form directs the debtor to make payment
12 directly to the creditor rather than to the other person whose
13 name appears on the form. Collection agency also includes a
14 person who uses a fictitious name or the name of another in the
15 collection or repossession of claims to convey to the debtor that
16 a third person is collecting or repossessing or has been employed
17 to collect or repossess the claim. Collection agency does not
18 include a person whose collection activities are confined and are
19 directly related to the operation of a business other than that
20 of a collection agency such as, but not limited to, the
21 following:

22 (i) A regular employee when collecting amounts for 1 employer
23 if all collection efforts are carried on in the name of the
24 employer.

25 (ii) A state or nationally chartered bank when collecting its
26 own claims.

27 (iii) A trust company when collecting its own claims.

1 (iv) A state or federally chartered savings and loan
2 association when collecting its own claims.

3 (v) A state or federally chartered credit union when
4 collecting its own claims.

5 (vi) A licensee under ~~Act No. 21 of the Public Acts of 1939,~~
6 ~~as amended, being sections 493.1 to 493.26 of the Michigan~~
7 ~~Compiled Laws~~ **1939 PA 21, MCL 493.1 to 493.26.**

8 (vii) A business licensed by this state under a regulatory
9 act in which collection activity is regulated.

10 (viii) An abstract company doing an escrow business.

11 (ix) A licensed real estate broker or salesperson if the
12 claims being handled by the broker or salesperson are related to
13 or in connection with his or her real estate business.

14 (x) A public officer or person acting under a court order.

15 (xi) An attorney handling claims and collections on behalf of
16 clients and in the attorney's own name.

17 **(xii) A contractor as defined in section 3 of the bad check**
18 **pretrial diversion act.**

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

21 (d) "Communicate" means the conveying of information
22 regarding a debt directly or indirectly to a person through any
23 medium.

24 (e) "Creditor" or "principal" means a person who offers or
25 extends credit creating a debt or a person to whom a debt is owed
26 or due or asserted to be owed or due. Creditor or principal
27 shall not include a person who receives an assignment or transfer

1 of a debt solely for the purpose of facilitating collection of
2 the debt for the assignor or transferor. In those instances, the
3 assignor or transferor of the debt shall continue to be
4 considered the creditor or the principal for purposes of this
5 article.

6 (f) "Consumer" or "debtor" means a natural person obligated
7 or allegedly obligated to pay a debt.

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

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

13 Enacting section 1. This amendatory act does not take
14 effect unless Senate Bill No. _____ or House Bill No. 4662
15 (request no. 02629'03) of the 92nd Legislature is enacted into
16 law.