

Act No. 167
Public Acts of 2016
Approved by the Governor
June 8, 2016
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**STATE OF MICHIGAN
98TH LEGISLATURE
REGULAR SESSION OF 2016**

Introduced by Senator Jones

ENROLLED SENATE BILL No. 656

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 901 (MCL 339.901), as amended by 2014 PA 560.

The People of the State of Michigan enact:

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.

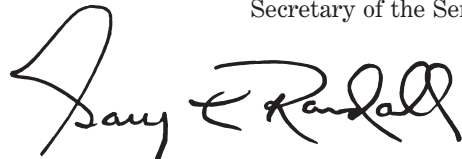
(c) Communicating with a creditor or the collection agency regarding the performance of any of the activities described in subdivision (a) or (b).

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