

# HOUSE BILL NO. 5256

August 17, 2021, Introduced by Reps. Markkanen and Cambensy and referred to the Committee on Regulatory Reform.

A bill to amend 1980 PA 299, entitled "Occupational code," by amending section 901 (MCL 339.901), as amended by 2016 PA 167, and by adding section 915b.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

- 1           Sec. 901. (1) 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

1 made primarily for personal, family, or household purposes.

2 (b) "Collection agency" means, **except as otherwise provided in**  
3 **this subdivision**, a person that is directly engaged in collecting  
4 or attempting to collect a claim **that has been purchased by or**  
5 **assigned or transferred to the person, or a claim that is** owed or  
6 due or asserted to be owed or due **to another ~~or~~ person.**  
7 **Collection agency includes**, subject to subsection (2), **a person**  
8 **that is directly engaged in** repossessing or attempting to repossess  
9 a thing of value owed or due or asserted to be owed or due **to**  
10 another **person** arising out of an expressed or implied agreement.  
11 Collection agency includes an individual who, in the course of  
12 collecting, repossessing, or attempting to collect or repossess,  
13 represents himself or herself as a collection or repossession  
14 agency, or a person that performs collection activities that are  
15 regulated under this article on behalf of another **person.**  
16 Collection agency also includes a person that furnishes or attempts  
17 to furnish a form or a written demand service represented to be a  
18 collection or repossession technique, device, or system to be used  
19 to collect or repossess claims, if the form contains the name of a  
20 person other than the creditor in a manner that indicates that a  
21 request or demand for payment is being made by a person other than  
22 the creditor even though the form directs the debtor to make  
23 payment directly to the creditor rather than to the other person  
24 whose name appears on the form. Collection agency also includes a  
25 person that uses a fictitious name or the name of another **person** in  
26 the collection or repossession of claims to convey to the debtor  
27 that a third person is collecting or repossessing or has been  
28 employed to collect or repossess the claim. Collection agency does  
29 not include a person whose collection activities are confined and

1 are directly related to the operation of a business other than that  
2 of a collection agency such as, but not limited to, the following:

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

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

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

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

10 (v) A state or federally chartered credit union that collects  
11 its own claims.

12 (vi) A licensee under the regulatory loan act, 1939 PA 21, MCL  
13 493.1 to 493.24.

14 (vii) A business that is licensed by this state under a  
15 regulatory act that regulates collection activity.

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

18 (ix) A licensed real estate broker or salesperson if the claims  
19 the broker or salesperson are collecting are related to or in  
20 connection with the broker's or salesperson's real estate business.

21 (x) A public officer or person that is acting under a court  
22 order.

23 (xi) An attorney who is handling a claim or collection on  
24 behalf of a client and in the attorney's own name.

25 (xii) A forwarding agency that, acting on behalf of a creditor  
26 or lender, forwards a claim, collection, or repossession only to a  
27 licensed collection agency that is licensed under this article or  
28 to a person whose collection activities are excluded or exempted

1 from licensing under this article.

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

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

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

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

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

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

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

25 (a) Forwarding repossession assignments on behalf of the  
26 creditor to a collection agency that is licensed under this act for  
27 repossession or attempting to repossess a thing of value owed or  
28 alleged to be owed on a claim.

29 (b) Pursuant to the authorization of a creditor and on the

1 creditor's behalf, providing or procuring the services of an  
2 auction or other remarketer in connection with the disposition or  
3 preparation for disposition of a thing of value that was previously  
4 repossessed by a creditor or by another person on behalf of the  
5 creditor.

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

9 **Sec. 915b. A licensee or collection agency shall not do either**  
10 **of the following:**

11 (a) For a claim purchased by or assigned or transferred to the  
12 licensee or collection agency, contact the debtor concerning the  
13 claim without first providing a written notice, not less than 5  
14 days before the first contact, to the debtor that contains all of  
15 the following:

16 (i) A statement in not less than 12-point font stating "A claim  
17 that you may owe has been assigned to a debt collector."

18 (ii) The dollar amount outstanding for the claim.

19 (iii) The name of the licensee or collection agency.

20 (iv) The name of the person the claim was purchased from or  
21 assigned or transferred by.

22 (v) The name of the original creditor.

23 (vi) The date and amount of the last payment that was made on  
24 the claim.

25 (b) Contact a debtor regarding any claim if that debtor  
26 provides documentation of economic abuse to the licensee or  
27 collection agency. As used in this subdivision, "documentation of  
28 economic abuse" includes any of the following:

29 (i) A personal protective order obtained under section 2950 of

1 the revised judicature act of 1961, 1961 PA 236, MCL 600.2950, by  
2 or on behalf of the debtor.

3 (ii) A police report indicating the debtor was a victim of  
4 domestic violence or elder abuse.

5 (iii) A Federal Trade Commission identity theft report  
6 indicating that the debtor has been the victim of identity theft.

7 (iv) A report signed by a licensed social worker, a licensed  
8 health care professional, or a licensed mental health professional,  
9 stating that the debtor incurred debts as a result of abusive  
10 coercion from any of the following:

11 (A) A current or former spouse.

12 (B) An individual with whom the debtor has a child in common.

13 (C) An individual with whom the debtor is or was in a dating  
14 relationship.

15 (D) A current or former resident of the debtor's household.

16 Enacting section 1. This amendatory act does not take effect  
17 unless Senate Bill No. \_\_\_\_\_ or House Bill No.5257(request no.  
18 03157'21) of the 101st Legislature is enacted into law.