

# SENATE BILL No. 946

May 20, 2014, Introduced by Senators JONES, BIEDA and PAPPAGEORGE and referred to the Committee on Regulatory Reform.

A bill to amend 1981 PA 70, 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,"

by amending sections 1, 2, 3, 4, 5, 6, and 7 (MCL 445.251, 445.252, 445.253, 445.254, 445.255, 445.256, and 445.257) and by adding sections 3a and 7a.

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

1           Sec. 1. As used in this act:

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 **THAT IS** directly or

1 indirectly engaged in soliciting a claim for collection or  
2 collecting or attempting to collect a claim owed or due or asserted  
3 to be owed or due another, or repossessing or attempting to  
4 repossess a thing of value owed or due or asserted to be owed or  
5 due another person, arising out of an expressed or implied  
6 agreement. Collection agency includes ~~a person~~ **AN INDIVIDUAL WHO IS**  
7 representing himself or herself as a collection or repossession  
8 agency, or ~~a person~~ **AN INDIVIDUAL WHO IS** performing the activities  
9 of a collection agency, ~~—on behalf of another, which~~ **AND THOSE**  
10 activities are regulated by ~~Act No. 299 of the Public Acts of 1980,~~  
11 ~~as amended, being sections 339.101 to 339.2601 of the Michigan~~  
12 ~~Compiled Laws.~~ **UNDER THE OCCUPATIONAL CODE, 1980 PA 299, MCL**  
13 **339.101 TO 339.2919.** Collection agency includes a person ~~who~~ **THAT**  
14 furnishes or attempts to furnish a form or a written demand service  
15 **THAT IS** represented to be a collection or repossession technique,  
16 device, or system to be used ~~to~~ **TO** collect or repossess claims, if  
17 the form contains the name of a person other than the creditor in a  
18 manner ~~indicating~~ **THAT INDICATES** that a request or demand for  
19 payment is being made by a person other than the creditor even  
20 though the form directs the debtor to make payment directly to the  
21 creditor rather than to the other person whose name appears on the  
22 form. Collection agency includes a person ~~who~~ **THAT** uses a  
23 fictitious name or the name of another in the collection or  
24 repossession of claims to convey to the debtor that a third person  
25 is collecting or repossessing or has been employed to collect or  
26 repossess the claim.

27 (c) "Communicate" means ~~the conveying of~~ **TO CONVEY** information

1 regarding a debt directly or indirectly to a person through any  
2 medium.

3 (d) "Consumer" or "debtor" means ~~a natural person~~ **AN**  
4 **INDIVIDUAL WHO IS** obligated or allegedly obligated to pay a debt.

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

14 (F) **"DEBT BUYER" MEANS A PERSON THAT IS ENGAGED IN THE**  
15 **BUSINESS OF PURCHASING DELINQUENT OR CHARGED-OFF CONSUMER LOANS OR**  
16 **CONSUMER CREDIT ACCOUNTS OR OTHER DELINQUENT CONSUMER DEBT FOR**  
17 **COLLECTION PURPOSES, WHETHER IT COLLECTS THE DEBT ITSELF OR THROUGH**  
18 **ANY AFFILIATE OR SUBSIDIARY, OR ENGAGES AN ATTORNEY TO COLLECT OR**  
19 **PURSUE LITIGATION TO COLLECT THE DEBT OR ENGAGES ANOTHER THIRD**  
20 **PARTY TO COLLECT THE DEBT.**

21 (G) **"ORIGINAL CREDITOR" MEANS THE LAST PERSON TO EXTEND CREDIT**  
22 **TO A CONSUMER FOR THE PURCHASE OF GOODS OR SERVICES, FOR THE LEASE**  
23 **OF GOODS, OR AS A LOAN OF MONEY, IDENTIFIED BY THE NAME THAT IT**  
24 **USED IN ITS DEALINGS WITH THE CONSUMER.**

25 (H) ~~(f)~~ **"Person" means an individual, sole proprietorship,**  
26 **partnership, association, ~~or~~ corporation, LIMITED LIABILITY**  
27 **COMPANY, OR OTHER LEGAL ENTITY.**

1           (I) ~~(g)~~ "Regulated person" means a person whose collection  
2 activities are confined and are directly related to the operation  
3 of a business other than that of a collection agency including **ANY**  
4 **OF** the following:

5           (i) A regular employee ~~when~~ **THAT IS** collecting accounts for 1  
6 employer if the collection efforts are carried on in the name of  
7 the employer.

8           (ii) A state or federally chartered bank ~~when~~ **THAT IS**  
9 collecting its own claim.

10           (iii) A trust company ~~when~~ **THAT IS** collecting its own claim.

11           (iv) A state or federally chartered savings and loan  
12 association ~~when~~ **THAT IS** collecting its own claim.

13           (v) A state or federally chartered credit union ~~when~~ **THAT IS**  
14 collecting its own claim.

15           (vi) A licensee under ~~Act No. 21 of the Public Acts of 1939, as~~  
16 ~~amended, being sections 493.1 to 493.26 of the Michigan Compiled~~  
17 ~~Laws.~~ **THE REGULATORY LOAN ACT, 1939 PA 21, MCL 493.1 TO 493.24.**

18           (vii) A business **THAT IS** licensed by ~~the~~ **THIS** state under a  
19 regulatory act ~~by which~~ **THAT REGULATES** collection activity. ~~is~~  
20 ~~regulated.~~

21           (viii) An abstract company ~~doing~~ **ENGAGED IN** an escrow business.

22           (ix) A licensed real estate broker or salesperson if the claim  
23 ~~being handled by the~~ broker or salesperson is **COLLECTING IS** related  
24 to or in connection with the broker or salesperson's real estate  
25 business.

26           (x) A public officer or a person **THAT IS** acting under court  
27 order.

1           (xi) An attorney ~~WHO IS~~ handling ~~claims and collections~~ **A CLAIM**  
2 **OR COLLECTION** on behalf of a client and in the attorney's own name.

3           (xii) **A DEBT BUYER.**

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

6           (a) ~~Communicating~~ **COMMUNICATE** with a debtor in a misleading or  
7 deceptive manner, such as using the stationery of an attorney or  
8 credit bureau unless the regulated person is an attorney or is a  
9 credit bureau and it is disclosed that it is the collection  
10 department of the credit bureau.

11           (b) ~~Using forms or instruments which simulate~~ **USE A FORM OR**  
12 **INSTRUMENT THAT SIMULATES** the appearance of judicial process.

13           (c) ~~Using seals or printed forms~~ **USE A SEAL OR PRINTED FORM** of  
14 a government agency or instrumentality.

15           (d) ~~Using forms~~ **USE A FORM** that may otherwise induce the  
16 belief that ~~they have~~ **THE FORM HAS** judicial or official sanction.

17           (e) ~~Making~~ **MAKE** an inaccurate, misleading, untrue, or  
18 deceptive statement or claim in a communication to collect a debt  
19 or ~~concealing~~ **CONCEAL** or not ~~revealing~~ **REVEAL** the purpose of a  
20 communication ~~when~~ **IF** it is made in connection with collecting a  
21 debt.

22           (f) ~~Misrepresenting~~ **MISREPRESENT** in a communication with a  
23 debtor 1 or more of the following:

24           (i) The legal status of a legal action being taken or  
25 threatened.

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

27           (iii) That the nonpayment of a debt will result in the debtor's

1 arrest or imprisonment, or the seizure, garnishment, attachment, or  
2 sale of the debtor's property.

3 (iv) That ~~accounts have~~ **AN ACCOUNT HAS** been turned over to **AN**  
4 innocent ~~purchasers~~ **PURCHASER** for value.

5 (g) ~~Communicating~~ **COMMUNICATE** with a debtor without accurately  
6 disclosing the caller's identity or cause expenses to the debtor  
7 for a long distance telephone call, telegram, or other charge.

8 (h) ~~Communicating~~ **COMMUNICATE** with a debtor, except through **A**  
9 billing procedure ~~when~~ **IF** the debtor is actively represented by an  
10 attorney, the attorney's name and address are known, and the  
11 attorney has been contacted in writing by the credit grantor or the  
12 credit grantor's representative or agent, unless the attorney  
13 representing the debtor fails to answer written communication or  
14 fails to discuss the claim on its merits within 30 days after  
15 ~~receipt of~~ **RECEIVING** the written communication.

16 (i) ~~Communicating~~ **COMMUNICATE** information relating to a  
17 debtor's indebtedness to an employer or an employer's agent unless  
18 the communication is specifically authorized in writing by ~~the~~ **THE**  
19 debtor subsequent to the forwarding of the claim for collection,  
20 the communication is in response to an inquiry initiated by the  
21 debtor's employer or the employer's agent, or the communication is  
22 for the purpose of acquiring location information about the debtor.

23 (j) ~~Using or employing, in~~ **IN** connection with collection of a  
24 claim, ~~a person~~ **USE OR EMPLOY AN INDIVIDUAL WHO IS** acting as a  
25 peace or law enforcement officer or any other officer **WHO IS**  
26 authorized to serve legal papers.

27 (k) ~~Using or threatening~~ **USE OR THREATEN** to use physical

1 violence in connection with collection of a claim.

2 (l) ~~Publishing, causing~~ **PUBLISH, CAUSE** to be published, or  
3 ~~threatening~~ **THREATEN** to publish lists ~~A LIST~~ of debtors, except for  
4 credit reporting purposes, when in response to a specific inquiry  
5 from a prospective credit grantor about a debtor.

6 (m) ~~Using~~ **USE** a shame card ~~,~~ **OR** shame automobile ~~,~~ or  
7 otherwise bring to public notice that ~~the~~ **A** consumer is a debtor,  
8 except with respect to **INSTITUTING** a legal proceeding. ~~which is~~  
9 ~~instituted.~~

10 (n) ~~Using~~ **USE** a harassing, oppressive, or abusive method to  
11 collect a debt, including causing a telephone to ring or engaging a  
12 ~~person~~ **AN INDIVIDUAL** in telephone conversation repeatedly,  
13 continuously, or at unusual times or places ~~which~~ **THAT** are known to  
14 be inconvenient to the debtor. All communications shall be made  
15 from 8 a.m. to 9 p.m. unless the debtor expressly agrees in writing  
16 to communications at another time. All telephone communications  
17 made from 9 p.m. to 8 a.m. ~~shall be~~ **ARE** presumed to be made at an  
18 inconvenient time in the absence of facts to the contrary.

19 (o) ~~Using~~ **USE** profane or obscene language.

20 (p) ~~Using~~ **USE** a method **THAT IS** contrary to a postal law or  
21 regulation to collect an account.

22 **(Q) VIOLATE ANY FEDERAL OR STATE LAW RELATING TO DEBT**  
23 **COLLECTION.**

24 (R) ~~(q) Failing~~ **FAIL** to implement a procedure designed to  
25 prevent a violation by an employee.

26 (S) ~~(r) Communicating~~ **COMMUNICATE** with a consumer regarding a  
27 debt by ~~post card~~ **POSTCARD.**

1 (T) IN CONNECTION WITH THE COLLECTION OF A DEBT, COMMUNICATE  
2 WITH ANY PERSON OTHER THAN THE CONSUMER, HIS OR HER ATTORNEY, A  
3 CONSUMER REPORTING AGENCY IF OTHERWISE PERMITTED BY LAW, OR THE  
4 ORIGINAL CREDITOR, EXCEPT AS PERMITTED UNDER APPLICABLE FEDERAL AND  
5 STATE LAW.

6 (U) ~~(s) Employing a person~~ EMPLOY AN INDIVIDUAL WHO IS  
7 required to be licensed HOLD A LICENSE under article 9 of Act No.  
8 299 of the Public Acts of 1980, being sections 339.901 to 339.916  
9 of the Michigan Compiled Laws, THE OCCUPATIONAL CODE, 1980 PA 299,  
10 MCL 339.901 TO 339.920, to collect a claim unless that person HE OR  
11 SHE is licensed under THAT article 9. of Act No. 299 of the Public  
12 Acts of 1980.

13 (V) IF THE REGULATED PERSON IS A DEBT BUYER OR ACTING ON  
14 BEHALF OF A DEBT BUYER, ATTEMPT TO COLLECT A DEBT WITHOUT VALID  
15 DOCUMENTATION THAT THE DEBT BUYER IS THE OWNER OF THE SPECIFIC DEBT  
16 INSTRUMENT OR ACCOUNT AT ISSUE AND REASONABLE VERIFICATION THAT THE  
17 DEBTOR OWES THE DEBT IN THE AMOUNT CLAIMED. AS USED IN THIS  
18 SUBDIVISION, "REASONABLE VERIFICATION" MEANS OBTAINING AT LEAST THE  
19 FOLLOWING INFORMATION:

20 (i) DOCUMENTATION OF THE NAME OF THE ORIGINAL CREDITOR.

21 (ii) THE NAME, ADDRESS, AND LAST 4 DIGITS OF THE SOCIAL  
22 SECURITY NUMBER OF THE DEBTOR AS STATED IN THE ORIGINAL CREDITOR'S  
23 RECORDS.

24 (iii) THE ORIGINAL CONSUMER ACCOUNT NUMBER.

25 (iv) A COPY OF THE SIGNED CONTRACT, SIGNED APPLICATION, OR  
26 OTHER DOCUMENTS THAT EVIDENCE THE DEBT AND TERMS OF THE DEBT.

27 (v) AN ITEMIZED ACCOUNTING OF THE AMOUNT THE DEBT BUYER CLAIMS



1 IS OWED, INCLUDING THE AMOUNT OF THE PRINCIPAL, THE AMOUNT OF ANY  
2 INTEREST, FEES, OR CHARGES, AND WHETHER THE CHARGES WERE IMPOSED BY  
3 THE ORIGINAL CREDITOR, A DEBT COLLECTOR, OR A SUBSEQUENT OWNER OF  
4 THE DEBT.

5 (W) IF THE REGULATED PERSON IS A DEBT BUYER OR ACTING ON  
6 BEHALF OF A DEBT BUYER, FAIL TO PROVIDE COPIES OF ACTUAL BUSINESS  
7 RECORDS THAT CONTAIN THE INFORMATION DESCRIBED IN SUBDIVISION (V) (i)  
8 TO (iv) TO THE CONSUMER WITHIN 20 DAYS AFTER RECEIVING A REQUEST  
9 FROM THE CONSUMER FOR COPIES OF THOSE RECORDS. PROVIDING AN  
10 AFFIDAVIT OR OTHER SWORN STATEMENT THAT REFERS TO 1 OR MORE  
11 DOCUMENTS THAT ARE NOT ATTACHED OR INCLUDED AS PART OF THAT  
12 STATEMENT IS NOT SUFFICIENT TO MEET THIS SUBDIVISION.

13 Sec. 3. (1) The attorney general may order a regulated person  
14 to cease and desist from violating this act.

15 (2) A regulated person **THAT IS** ordered to cease and desist  
16 **UNDER SUBSECTION (1)** is entitled to a hearing before ~~the~~**AN**  
17 appropriate officer ~~as~~ determined by the attorney general if he or  
18 she files a written request **FOR A HEARING** within 30 days after the  
19 effective date of the order.

20 (3) If a regulated person fails to comply with a cease and  
21 desist order issued ~~pursuant to this act,~~ **UNDER THIS SECTION**, the  
22 attorney general may commence an action in the circuit court for  
23 Ingham county or in a circuit court for a county where the person  
24 is doing business, to enjoin violations of the cease and desist  
25 order or to seek enforcement of a previously issued order. The  
26 court may impose a fine ~~or~~**OF** not more than \$500.00 for each  
27 violation of the cease and desist order.

1           SEC. 3A. (1) IF THE ATTORNEY GENERAL HAS REASON TO BELIEVE  
2 THAT A PERSON HAS INFORMATION OR IS IN POSSESSION, CUSTODY, OR  
3 CONTROL OF ANY DOCUMENT OR OTHER TANGIBLE OBJECT THAT IS RELEVANT  
4 TO AN INVESTIGATION OF A VIOLATION OF THIS ACT, THE ATTORNEY  
5 GENERAL MAY SERVE ON THE PERSON, BEFORE BRINGING ANY ACTION IN THE  
6 CIRCUIT COURT, A WRITTEN DEMAND TO APPEAR AND BE EXAMINED UNDER  
7 OATH, AND TO PRODUCE THE DOCUMENT OR OBJECT FOR INSPECTION AND  
8 COPYING. THE DEMAND SHALL MEET ALL OF THE FOLLOWING:

9           (A) BE SERVED UPON THE PERSON IN THE MANNER REQUIRED FOR  
10 SERVICE OF PROCESS IN THIS STATE.

11           (B) DESCRIBE THE NATURE OF THE CONDUCT THAT CONSTITUTES THE  
12 VIOLATION UNDER INVESTIGATION.

13           (C) DESCRIBE THE DOCUMENT OR OBJECT WITH SUFFICIENT  
14 DEFINITENESS TO PERMIT IT TO BE FAIRLY IDENTIFIED.

15           (D) IF DEMANDED, CONTAIN A COPY OF WRITTEN INTERROGATORIES.

16           (E) PRESCRIBE A REASONABLE TIME AT WHICH THE PERSON MUST  
17 APPEAR TO TESTIFY, WITHIN WHICH TO ANSWER ANY WRITTEN  
18 INTERROGATORIES, AND WITHIN WHICH THE DOCUMENT OR OBJECT MUST BE  
19 PRODUCED.

20           (F) ADVISE THE PERSON THAT OBJECTIONS TO OR REASONS FOR NOT  
21 COMPLYING WITH THE DEMAND MAY BE FILED WITH THE ATTORNEY GENERAL ON  
22 OR BEFORE THE APPLICABLE TIME OR TIME PERIOD UNDER SUBDIVISION (E).

23           (G) SPECIFY A PLACE FOR THE TAKING OF TESTIMONY OR FOR THE  
24 PRODUCTION OF THE DOCUMENT OR OBJECT AND DESIGNATE THE PERSON WHO  
25 IS THE CUSTODIAN OF THE DOCUMENT OR OBJECT.

26           (2) AT ANY TIME BEFORE A RETURN DATE SPECIFIED IN A DEMAND FOR  
27 INFORMATION UNDER SUBSECTION (1), OR WITHIN 10 DAYS AFTER THE

1 DEMAND IS SERVED, WHICHEVER IS SHORTER, A PERSON FROM WHICH  
2 INFORMATION IS DEMANDED MAY PETITION THE INGHAM COUNTY CIRCUIT  
3 COURT, STATING GOOD CAUSE FOR A PROTECTIVE ORDER TO EXTEND THE  
4 RETURN DATE FOR A REASONABLE TIME, OR TO MODIFY OR SET ASIDE THE  
5 DEMAND. THE ATTORNEY GENERAL SHALL RECEIVE NOTICE OF THE FILING OF  
6 A PETITION UNDER THIS SUBSECTION FROM THE PERSON AT LEAST 10 DAYS  
7 BEFORE ANY PROCEEDINGS ON THE PETITION AND SHALL BE GIVEN AN  
8 OPPORTUNITY TO RESPOND.

9 (3) IF THE COURT DOES NOT ISSUE A PROTECTIVE ORDER UNDER  
10 SUBSECTION (2) TO A PERSON THAT WAS SERVED WITH A DEMAND UNDER  
11 SUBSECTION (1), AND THE PERSON DOES NOT COMPLY WITH THE DEMAND BY  
12 ITS RETURN DATE, THE ATTORNEY GENERAL MAY APPLY TO THE COURT FOR AN  
13 ORDER COMPELLING THE PERSON TO COMPLY WITH THE DEMAND. THE ATTORNEY  
14 GENERAL MUST GIVE NOTICE OF AN APPLICATION UNDER THIS SUBSECTION TO  
15 THE PERSON BEFORE ANY PROCEEDINGS ON THE APPLICATION.

16 (4) ANY COURT OF COMPETENT JURISDICTION IN THIS STATE MAY  
17 ORDER A PERSON TO COMPLY WITH A DEMAND MADE UNDER SUBSECTION (1) IF  
18 THE ATTORNEY GENERAL ESTABLISHES THAT THERE ARE REASONABLE GROUNDS  
19 TO BELIEVE THAT 1 OR MORE PERSONS COMMITTED, ARE COMMITTING, OR ARE  
20 ABOUT TO COMMIT AN ACT OR PRACTICE THAT VIOLATES THIS ACT; THAT  
21 THOSE PERSONS, OR ANY PERSON THAT POSSESSES RELEVANT DOCUMENTARY  
22 MATERIAL ABOUT THE VIOLATION, HAVE LEFT THE STATE OR ARE ABOUT TO  
23 LEAVE THE STATE; AND THAT AN ORDER UNDER THIS SUBSECTION IS  
24 NECESSARY TO ENFORCE THIS ACT. THE COURT MAY ALSO, IMMEDIATELY AND  
25 WITHOUT NOTICE, FORBID THE REMOVAL FROM ANY PLACE, CONCEALMENT,  
26 WITHHOLDING, DESTRUCTION, MUTILATION, FALSIFICATION, OR ALTERATION  
27 BY ANY OTHER MEANS OF ANY DOCUMENTARY MATERIAL IN THE POSSESSION,

1 CUSTODY, OR CONTROL OF ANY PERSON THAT THE COURT FINDS MAY BE  
2 CONNECTED WITH ACTS OR PRACTICES THAT VIOLATE THIS ACT.

3 (5) ANY PERSON THAT HAS RECEIVED NOTICE OF A DEMAND FOR  
4 INFORMATION UNDER SUBSECTION (1), OR NOTICE OF AN ORDER UNDER  
5 SUBSECTION (3) OR (4), AND WITH INTENT TO AVOID, EVADE, OR PREVENT  
6 COMPLIANCE, IN WHOLE OR IN PART, WITH ANY CIVIL INVESTIGATION OR  
7 ORDER UNDER THIS SECTION, REMOVES FROM ANY PLACE, CONCEALS,  
8 WITHHOLDS, DESTROYS, MUTILATES, FALSIFIES, OR BY ANY OTHER MEANS  
9 ALTERS ANY DOCUMENTARY MATERIAL IN THE POSSESSION, CUSTODY, OR  
10 CONTROL OF ANY PERSON SUBJECT TO THAT NOTICE, IS SUBJECT TO A CIVIL  
11 FINE OF NOT MORE THAN \$10,000.00 PER VIOLATION, RECOVERABLE BY THE  
12 STATE IN ADDITION TO ANY OTHER APPROPRIATE PENALTY OR SANCTION.

13 (6) THE ATTORNEY GENERAL SHALL KEEP CONFIDENTIAL ANY  
14 PROCEEDING, TESTIMONY TAKEN, OR MATERIAL PRODUCED BEFORE HE OR SHE  
15 BRINGS AN ACTION AGAINST A PERSON UNDER THIS ACT FOR THE VIOLATION  
16 UNDER INVESTIGATION, UNLESS THE PERSON BEING INVESTIGATED, AND THE  
17 PERSON THAT TESTIFIED, ANSWERED INTERROGATORIES, OR PRODUCED  
18 MATERIAL, WAIVES CONFIDENTIALITY.

19 Sec. 4. (1) ~~The~~ IF THE ATTORNEY GENERAL HAS PROBABLE CAUSE TO  
20 BELIEVE THAT A PERSON HAS ENGAGED, IS ENGAGING, OR IS ABOUT TO  
21 ENGAGE IN AN ACT OR PRACTICE THAT VIOLATES THIS ACT, AND GIVES  
22 NOTICE AS REQUIRED UNDER THIS SECTION, THE attorney general may  
23 bring an action to restrain, by temporary or permanent injunction,  
24 ~~an~~ THE PERSON FROM ENGAGING IN THAT act or practice. ~~in violation~~  
25 ~~of this act.~~ The ATTORNEY GENERAL MAY BRING THE action ~~may be~~  
26 ~~brought~~ in the circuit court for the county where the defendant  
27 resides or conducts business OR, IF THE DEFENDANT IS NOT

1 ESTABLISHED IN THIS STATE, IN THE CIRCUIT COURT OF INGHAM COUNTY.  
 2 The court may issue a temporary or permanent injunction and make  
 3 other equitable orders or judgments, including restitution to  
 4 consumers OR A CIVIL FINE UNDER SECTION 6(1). THE COURT MAY ALSO  
 5 AWARD COSTS TO THE PREVAILING PARTY.

6 (2) UNLESS WAIVED BY THE COURT BASED ON A SHOWING OF GOOD  
 7 CAUSE, AT LEAST 10 DAYS BEFORE THE COMMENCEMENT OF AN ACTION UNDER  
 8 THIS SECTION, THE ATTORNEY GENERAL SHALL NOTIFY THE PERSON OF HIS  
 9 OR HER INTENDED ACTION AND GIVE THE PERSON AN OPPORTUNITY TO CEASE  
 10 AND DESIST FROM THE ACT OR PRACTICE THAT IS THE ALLEGED VIOLATION  
 11 OF THIS ACT, OR TO CONFER WITH THE ATTORNEY GENERAL IN PERSON, BY  
 12 COUNSEL, OR BY ANOTHER REPRESENTATIVE ABOUT THE PROPOSED ACTION  
 13 BEFORE THE ACTION IS COMMENCED. UNLESS THE PERSON IS A CORPORATION,  
 14 THE ATTORNEY GENERAL MAY GIVE THE NOTICE TO THE PERSON BY MAIL,  
 15 POSTAGE PREPAID, TO THE PERSON'S USUAL PLACE OF BUSINESS OR, IF THE  
 16 PERSON DOES NOT HAVE A USUAL PLACE OF BUSINESS, TO THE PERSON'S  
 17 LAST KNOWN ADDRESS. IF THE PERSON IS A CORPORATION, THE ATTORNEY  
 18 GENERAL MAY ONLY GIVE THE NOTICE TO A RESIDENT AGENT THAT IS  
 19 DESIGNATED TO RECEIVE SERVICE OF PROCESS OR TO AN OFFICER OF THE  
 20 CORPORATION.

21 Sec. 5. (1) ~~When~~ IF the attorney general has authority to  
 22 institute an action pursuant to ~~UNDER~~ section 4, the attorney  
 23 general may accept an assurance of discontinuance of any method,  
 24 act, or practice from the person alleged to be engaged in or to  
 25 have been engaged in a violation OF THIS ACT. The assurance may  
 26 include ~~the~~ A stipulation for the voluntary payment ~~by~~ the person  
 27 ~~of~~ the costs of investigation, an amount for restitution to

1 aggrieved persons, or both. An assurance of discontinuance shall be  
 2 in writing and filed with the circuit court **OF INGHAM COUNTY**. The  
 3 clerk of the court shall maintain a record of the ~~filings. A matter~~  
 4 ~~closed pursuant to this section may be opened by the attorney~~  
 5 ~~general for further proceedings.~~ **ASSURANCES OF DISCONTINUANCE FILED**  
 6 **WITH THE COURT.**

7 (2) **UNLESS RESCINDED BY THE PARTIES OR VOIDED BY THE COURT FOR**  
 8 **GOOD CAUSE, AN ASSURANCE OF DISCONTINUANCE FILED UNDER SUBSECTION**  
 9 **(1) MAY BE ENFORCED IN THE CIRCUIT COURT OF INGHAM COUNTY BY ANY**  
 10 **PARTY TO THE ASSURANCE. AN ASSURANCE OF DISCONTINUANCE MAY BE**  
 11 **MODIFIED BY THE PARTIES OR BY THE CIRCUIT COURT OF INGHAM COUNTY**  
 12 **FOR GOOD CAUSE.**

13 Sec. 6. (1) In an action brought under this act, if the court  
 14 finds that a regulated person has ~~wilfully~~ violated this act, the  
 15 attorney general ~~, upon~~ **MAY** petition ~~to~~ the court **FOR, AND** may  
 16 recover ~~, on behalf of the state, a civil fine not exceeding~~  
 17 ~~\$500.00~~ **IN AN AMOUNT THAT DOES NOT EXCEED \$1,000.00** per violation.

18 (2) A regulated person ~~engaging~~ **THAT ENGAGES** in a recurring  
 19 course of ~~wilful~~ **WILLFUL** conduct in violation of this act ~~shall be~~  
 20 ~~fined~~ **IS GUILTY OF A MISDEMEANOR PUNISHABLE BY A FINE OF** not more  
 21 than \$5,000.00 for the first offense, ~~and~~ **OR A FINE OF** not more  
 22 than \$10,000.00, or ~~imprisoned~~ **IMPRISONMENT** for not more than 1  
 23 year, or both, for a second or subsequent offense.

24 Sec. 7. (1) A person ~~who~~ **THAT** suffers injury, loss, or damage,  
 25 or from ~~whom~~ **WHICH** money was collected by the use of a method, act,  
 26 or practice ~~in violation of~~ **THAT VIOLATES** this act, may bring an  
 27 action for damages or other equitable relief.

1           (2) In an action brought ~~pursuant to~~ **UNDER** subsection (1), if  
2 the court finds for the petitioner, ~~recovery shall be in~~ **THE**  
3 **PETITIONER SHALL RECOVER** the amount of actual damages or ~~\$50.00,~~  
4 **\$250.00**, whichever is greater, **TOGETHER WITH REASONABLE ATTORNEY**  
5 **FEES AND COURT COSTS INCURRED IN CONNECTION WITH THE ACTION.** If the  
6 court finds that the method, act, or practice was a ~~wilful~~ **WILLFUL**  
7 violation, the court may assess a civil fine of ~~not less than~~ **AT**  
8 **LEAST** 3 times the actual damages, or ~~\$150.00,~~ **\$1,000.00**, whichever  
9 is greater, and shall award reasonable ~~attorney's~~ **ATTORNEY** fees and  
10 court costs incurred in connection with the action.

11           **SEC. 7A. (1) WITHIN 5 DAYS AFTER THE INITIAL COMMUNICATION**  
12 **WITH A CONSUMER IN CONNECTION WITH A COLLECTION OF A DEBT, UNLESS**  
13 **ALL OF THE INFORMATION IS CONTAINED IN THE INITIAL COMMUNICATION OR**  
14 **THE CONSUMER HAS PAID THE DEBT, A REGULATED PERSON SHALL SEND THE**  
15 **CONSUMER A WRITTEN NOTICE THAT CONTAINS ALL OF THE FOLLOWING**  
16 **INFORMATION:**

17           **(A) THE AMOUNT OF THE DEBT OWED.**

18           **(B) THE DATE THE INITIAL COMMUNICATION WAS SENT TO THE DEBTOR.**

19           **(C) THE NAME OF THE CREDITOR TO WHICH THE DEBT IS OWED, AND**  
20 **THE NAME AND ADDRESS OF THE ORIGINAL CREDITOR IF DIFFERENT FROM THE**  
21 **CURRENT CREDITOR.**

22           **(D) A STATEMENT SPECIFYING THAT UNLESS THE CONSUMER DISPUTES**  
23 **THE VALIDITY OF THE DEBT, OR A PORTION OF THE DEBT, WITHIN 30 DAYS**  
24 **AFTER HE OR SHE RECEIVES THE NOTICE, THE REGULATED PERSON WILL**  
25 **ASSUME THAT THE DEBT IS VALID.**

26           **(E) A STATEMENT SPECIFYING THAT IF THE CONSUMER NOTIFIES THE**  
27 **REGULATED PERSON IN WRITING WITHIN 30 DAYS AFTER HE OR SHE RECEIVES**

1 THE NOTICE THAT THE DEBT, OR ANY PORTION OF THE DEBT, IS DISPUTED,  
2 THE REGULATED PERSON SHALL OBTAIN VERIFICATION OF THE DEBT OR A  
3 COPY OF A JUDGMENT AGAINST THE CONSUMER AND THAT THE REGULATED  
4 PERSON WILL MAIL A COPY OF THE VERIFICATION OR JUDGMENT TO THE  
5 CONSUMER.

6 (2) IF A CONSUMER NOTIFIES A REGULATED PERSON WITHIN 30 DAYS  
7 AFTER RECEIVING A WRITTEN NOTICE UNDER SUBSECTION (1) THAT THE  
8 DEBT, OR ANY PORTION OF THE DEBT, IS DISPUTED, THE REGULATED PERSON  
9 SHALL CEASE COLLECTION OF THE DEBT OR ANY DISPUTED PORTION OF THE  
10 DEBT UNTIL THE REGULATED PERSON OBTAINS VERIFICATION OF THE DEBT  
11 AND MAILS A COPY OF THE VERIFICATION OR JUDGMENT TO THE CONSUMER.  
12 AS USED IN THIS SUBSECTION, "VERIFICATION" INCLUDES A COPY OF THE  
13 CONTRACT OR OTHER DOCUMENTS EVIDENCING A DEBT AND AN ITEMIZED  
14 ACCOUNTING OF THE AMOUNT CLAIMED TO BE OWED, INCLUDING THE NUMBER  
15 AND AMOUNT OF PREVIOUSLY MADE PAYMENTS, FEES, INTEREST, AND  
16 CHARGES. IF THE REGULATED PERSON IS A DEBT BUYER, VERIFICATION  
17 INCLUDES THE DOCUMENTS DESCRIBED IN SECTION 2 (V) (i) TO (v). AN  
18 AFFIDAVIT OR OTHER SWORN STATEMENT THAT REFERS TO 1 OR MORE  
19 DOCUMENTS THAT ARE NOT ATTACHED OR INCLUDED AS PART OF THAT  
20 STATEMENT IS NOT SUFFICIENT AS VERIFICATION UNDER THIS SUBSECTION.

21 (3) THE FAILURE OF A CONSUMER TO DISPUTE THE VALIDITY OF A  
22 DEBT UNDER THIS SECTION SHALL NOT BE CONSTRUED AS AN ADMISSION OF  
23 LIABILITY BY THE CONSUMER.