

1 **State of Arkansas**
2 **79th General Assembly**
3 **Regular Session, 1993**
4 **By: Representative Mahony**

A Bill

HOUSE BILL 1381

For An Act To Be Entitled

8 "AN ACT TO AMEND TITLE 17, CHAPTER 21 OF THE ARKANSAS CODE
9 TO CLARIFY THAT PRIVATE CHILD SUPPORT COLLECTION AGENCIES
10 MUST BE LICENSED BY THE STATE BOARD OF COLLECTION AGENCIES
11 AND TO PROVIDE REMEDIES FOR FAILURE TO OBTAIN LICENSURE;
12 TO PROVIDE THAT THE GROSS RECEIPTS TAX LEVIED ON DEBT
13 COLLECTION SERVICES SHALL NOT BE APPLICABLE TO SERVICES
14 PROVIDED TO COLLECT DELINQUENT CHILD SUPPORT PAYMENTS; AND
15 FOR OTHER PURPOSES."

Subtitle

17
18 "TO REQUIRE STATE LICENSURE FOR PRIVATE CHILD SUPPORT
19 COLLECTION AGENCIES & TO EXEMPT COLLECTION SERVICES FOR
20 DELINQUENT CHILD SUPPORT FROM THE GROSS RECEIPTS TAX."

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22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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24 SECTION 1. Arkansas Code 17-21-102 is amended to read as follows:

25 "17-21-102. Exemptions.

26 (a) The provisions of this chapter shall not be applicable to:

27 (1) Regular employees of a single creditor;

28 (2) Banks;

29 (3) Trust companies;

30 (4) Savings and loan associations;

31 (5) Abstract companies doing an escrow business;

32 (6) Licensed real estate brokers and agents when the claims or
33 accounts being handled by the broker or agent are related to or in connection
34 with the broker's or agent's regular real estate business;

35 (7) Express and telegraph companies subject to public regulation

1 and supervision;

2 (8) Attorneys at law handling claims and collections in their own
3 name and not operating a collection agency under the management of a layman or
4 under a name other than his own;

5 (9) Persons, firms, corporations, or associations handling
6 claims, accounts, or collections under an order of any court, however, child
7 support collection agencies not operating pursuant to Title IV-D of the Social
8 Security Act are not exempt from this chapter and shall be subject to
9 licensure. Any person, firm, corporation, or association which, for a
10 valuable consideration, purchases accounts, claims, or demands of another and
11 then, in such purchaser's own name, proceeds to assert or collect the
12 accounts, claims, or demands.

13 (b) Nothing in §§ 17-21-301, 17-21-309, 17-21-401, or this section with
14 respect to licensure by the State Board of Collection Agencies, or limitations
15 of fees for collection services, shall include or be applicable to attorneys
16 at law licensed to practice in the State of Arkansas who are engaged in
17 rendering legal services for clients in the collection of accounts, debts, or
18 claims; nor shall §§ 17-21-301, 17-21-309, 17-21-401, or this section amend or
19 repeal in any way the exemptions set out in subsection (a) of this section."

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21 SECTION 2. Arkansas Code 17-21-103 is amended to read as follows:

22 "17-21-103. Penalties.

23 (a) Any person, partnership, corporation, or association which engages
24 in the business activities of a collection agency without a valid license
25 issued pursuant to this chapter and any person, partnership, corporation, or
26 association who shall violate any provision of this chapter shall be deemed
27 guilty of a misdemeanor and upon conviction shall be fined in any sum of not
28 less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00).
29 Each day of the violation shall constitute a separate offense.

30 (b) The State Board of Collection Agencies is authorized to impose
31 monetary fines as civil penalties to be paid for failure to comply with the
32 provisions of this subchapter or the regulations promulgated pursuant thereto.
33 Prior to the imposition of monetary fines, the State Board of Collection
34 Agencies shall provide notice and opportunity to be heard in accordance with
35 hearing procedures in effect for the revocation, suspension or refusal of

1 licensure."

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3 SECTION 3. Arkansas Code 17-21-105 is hereby created and shall read as
4 follows:

5 "17-21-105. When any person, partnership, corporation, or association
6 engages in the business activities of a collection agency without a valid
7 license issued pursuant to this chapter or has had the license revoked,
8 suspended, or refused, in accordance with the provisions of this subchapter,
9 the board shall have the right to petition the chancery court in the
10 jurisdiction in which the collection activity has occurred and, upon
11 affidavit, secure a writ of injunction, without bond, restraining and
12 prohibiting the person, partnership, corporation, or association from
13 operating the collection agency."

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15 SECTION 4. *The provisions of Arkansas Code § 26-52-301(3)(E) shall not*
16 *be applicable to services provided in collecting delinquent child support*
17 *payments.*

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19 SECTION 5. All provisions of this act of a general and permanent nature
20 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
21 Revision Commission shall incorporate the same in the Code.

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23 SECTION 6. If any provision of this act or the application thereof to
24 any person or circumstance is held invalid, such invalidity shall not affect
25 other provisions or applications of the act which can be given effect without
26 the invalid provision or application, and to this end the provisions of this
27 act are declared to be severable.

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29 SECTION 7. All laws and parts of laws in conflict with this act are
30 hereby repealed.

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/s/J. Mahony

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