

1 State of Arkansas
2 82nd General Assembly
3 Regular Session, 1999

A Bill

HOUSE BILL 2095

4
5 By: Representative Vess
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7

For An Act To Be Entitled

8
9 "AN ACT TO AMEND VARIOUS SECTIONS OF THE ARKANSAS CODE
10 REGARDING COLLECTION AGENCIES; AND FOR OTHER
11 PURPOSES. "

Subtitle

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13
14 "TO AMEND VARIOUS SECTIONS OF THE
15 ARKANSAS CODE REGARDING COLLECTION
16 AGENCIES. "

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18
19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

20
21 SECTION 1. Arkansas Code 17-24-305 is amended to read as follows:

22 "17-24-305. Fees - Disposition.

23 (a) The board may charge an annual license fee not to exceed one
24 hundred twenty-five dollars (\$125) for licensing each collection agency and an
25 annual fee of fifteen dollars (\$15.00) for licensing each employee of the
26 licensed collection agency who as an employee solicits, collects or attempts
27 to collect any delinquent account or accounts by telephone, mail, personal
28 contact, or otherwise.

29 (b) All income from fees shall be deposited to the State Board of
30 Collection Agencies' account in some bank authorized to do business in this
31 state, from which account shall be paid the cost of administering this
32 chapter. "

33
34 SECTION 2. Arkansas Code 17-24-306 is amended to read as follows:

35 "17-24-306. Bond.

36 (a) The board shall require each licensee to secure a bond in an amount

1 not less than five thousand dollars (\$5,000) nor more than twenty-five
 2 thousand dollars (\$25,000) for ~~each location, its main office, plus an~~
 3 ~~additional bond of one thousand five hundred dollars (\$1,500) for each branch~~
 4 ~~office~~, with the security on the bond to be approved by the board. It is the
 5 specific intent of this chapter to permit the posting of a surety bond,
 6 certificate of deposit, or cash bond.

7 (b) This bond shall provide that the person, partnership, association,
 8 or corporation giving the bond shall, upon written demand, pay and turn over
 9 to or for the person, partnership, association, or corporation from whom any
 10 account, bill, or other indebtedness is taken for collection in accordance
 11 with the terms of the agreement upon which it was received for collection.

12 (c) The aggregate liability of the surety for all breaches of the
 13 conditions of the bond shall, in no event, exceed the amount of the bond. The
 14 surety shall have a right to cancel such bond upon giving thirty (30) days'
 15 notice to the board and thereafter shall be relieved of liability for any
 16 breach of condition occurring after the effective date of the cancellation.

17 (d) This bond shall be made payable to the State Board of Collection
 18 Agencies.

19 (e)(1) The board may promulgate regulations under which it can disburse
 20 bond funds to claimants.

21 (2) If the bonds are insufficient to satisfy all legitimate
 22 claims the board shall distribute the funds pro rata among the claimants. In
 23 the discretion of the board, it may require the sureties to deal directly with
 24 the claimants pursuant to regulations promulgated by the board."
 25

26 SECTION 3. Arkansas Code 17-24-308 is amended to read as follows:

27 "17-24-308. Revocation, suspension, or refusal - Procedure.

28 (a)(1) Upon the receipt of evidence of any violation, the board shall
 29 order a hearing to be held.

30 (2) All interested parties shall be apprised, at least twenty
 31 (20) days prior to such hearing, as to the time and place of hearing.

32 (3) The board shall have authority to summon and examine
 33 witnesses, gather information by affidavit and deposition, and subpoena those
 34 business records pertinent to the charges, as to any alleged violator.

35 (4) Revocation, suspension, or refusal to issue shall be by order
 36 of the board.

1 (b) Any party to the proceeding shall have the right to appeal from the
 2 order of the board to the Circuit Court of Pulaski County which shall try the
 3 case ~~de novo without regard to the proof submitted before the board unless the~~
 4 ~~proof is submitted for the consideration of the court.~~ The appeal may be taken
 5 by filing a petition with the clerk of the court within thirty (30) days of
 6 the date of the decision of the board. The decision of the circuit court shall
 7 be appealable to the Supreme Court of the State of Arkansas in the same manner
 8 as civil cases are appealed.

9 (c) In the event that the holder of a license shall fail to secure a
 10 renewal thereof, or in the event of the suspension or revocation of the
 11 license by the board, and in the event that an appeal is taken to the courts
 12 as hereinabove provided, the holder of the license shall be allowed, during
 13 the period of the appeal, to operate the business of a collection agency as
 14 though no such action had been taken by the board."
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16 SECTION 4. Arkansas Code 17-24-401 is amended to read as follows:

17 "17-24-401. 'Long arm' jurisdiction.

18 Any nonresident person, partnership, association, or any foreign
 19 corporation not authorized to do business in this state whose sole business
 20 contact with this state is the soliciting of accounts in this state by mail,
 21 telephone, telegraph, or by other like means originating outside this state,
 22 or the taking or accepting for collection of any account or accounts in this
 23 state by such means, shall by such acts:

24 (1) Subject himself to the jurisdiction of the proper courts of this
 25 state under the procedure provided in §§ 17-24-403 and 17-24-404 on any cause
 26 of action arising out of or connected with the collection of any such account
 27 or accounts;

28 (2) Be deemed to have consented to comply with the maximum collection
 29 charges or fees provided in § 17-24-309; and

30 (3) Be deemed to have consented to and designated the Secretary of
 31 State of Arkansas to be the true and lawful attorney of the person,
 32 partnership, association, or corporation upon whom may be served all legal
 33 process in any action, suit, or proceeding in any court by any resident of
 34 this state arising out of or connected with the collection of any such account
 35 or accounts. Such acts shall be signification of its agreement that any legal
 36 process in any court action or suit so served shall be of the same legal force

1 and validity as personal service of process in this state upon the person,
 2 partnership, association, or corporation. Service of process shall be made
 3 upon the Secretary of State pursuant to § 17-24-403 ~~by serving three (3)~~
 4 ~~copies of the process on the Secretary of State along with notification~~
 5 ~~thereto that service is being effected pursuant to this subdivision (3), and~~
 6 ~~paying the Secretary of State the sum of twenty-five dollars (\$25.00). The~~
 7 ~~Secretary of State, upon receiving the process, shall forthwith mail a copy of~~
 8 ~~the summons and complaint by first class mail to the last and best known~~
 9 ~~address of the named defendant in the suit, notifying him of the filing of the~~
 10 ~~suit."~~

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 12 SECTION 5. Arkansas Code 17-24-403 is amended to read as follows:

13 "17-24-403. Service of process.

14 (a) Service of process in the action, suit, or proceeding in any court
 15 as authorized by § 17-24-401(3) shall be made by leaving ~~two (2)~~ three (3)
 16 copies in the office of the Secretary of State along with a notification that
 17 service is being effected pursuant to § 17-24-401, and by paying the Secretary
 18 of State the sum of twenty-five dollars (\$25.00). A certificate by the
 19 Secretary of State showing service and attached to the ~~original or third~~ copy
 20 of the process presented to him for that purpose shall be sufficient evidence
 21 of the service. Service upon the Secretary of State as attorney shall be
 22 service upon the principal.

23 (b) The Secretary of State shall immediately mail one (1) copy of the
 24 court process to the defendant in the court proceeding by first class mail at
 25 ~~it's~~ the defendant's last known principal place of business, and ~~he~~ shall keep
 26 a record of all process ~~served on him~~ which shall show the day and hour of
 27 service receipt. The Secretary of State shall file an affidavit showing
 28 compliance with this section in the court proceedings on or before the date
 29 the defendant is required to appear or respond, unless an extension of time is
 30 allowed by the court. ~~Service is sufficient, provided notice of the service~~
 31 ~~and a copy of the court process are sent within ten (10) days by registered or~~
 32 ~~certified mail by the plaintiff or the plaintiff's attorney in the court~~
 33 ~~proceeding to the defendant in the court proceeding at the last known~~
 34 ~~principal place of business of the defendant in the court proceeding, and the~~
 35 ~~defendant's receipt, or receipt issued by the post office with which the~~
 36 ~~letter is registered, showing the name of the sender of the letter and the~~

~~1 name and address of the person, partnership, association, or corporation to
2 whom the letter is addressed, and the affidavit of the plaintiff or
3 plaintiff's attorney in the court proceeding showing compliance are filed with
4 the clerk of the court in which the action, suit, or proceeding is pending on
5 or before the date the defendant in the court proceeding is required to appear
6 or respond, or within any further time the court may allow.~~

7 (c) No plaintiff or complainant shall be entitled to a judgment or
8 determination by default in any court proceeding in which process is served
9 under this section until the expiration of forty-five (45) days from the date
10 of filing of the affidavit of compliance.

11 (d) Nothing contained in this section shall limit or abridge the right
12 to serve any process, notice, order, pleading, or demand upon any person,
13 partnership, association, or corporation in any other manner now or hereafter
14 permitted by law."
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16 SECTION 6. All provisions of this Act of a general and permanent nature
17 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
18 Revision Commission shall incorporate the same in the Code.
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20 SECTION 7. If any provision of this Act or the application thereof to
21 any person or circumstance is held invalid, such invalidity shall not affect
22 other provisions or applications of the Act which can be given effect without
23 the invalid provision or application, and to this end the provisions of this
24 Act are declared to be severable.
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26 SECTION 8. All laws and parts of laws in conflict with this Act are
27 hereby repealed.
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