

HOUSE No. 328

The Commonwealth of Massachusetts

PRESENTED BY:

Tackey Chan

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to debt collection licensure.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Tackey Chan</i>	<i>2nd Norfolk</i>	<i>1/29/2021</i>
<i>Bradley H. Jones, Jr.</i>	<i>20th Middlesex</i>	<i>1/31/2021</i>
<i>Timothy R. Whelan</i>	<i>1st Barnstable</i>	<i>2/18/2021</i>
<i>Steven S. Howitt</i>	<i>4th Bristol</i>	<i>4/7/2021</i>

HOUSE No. 328

By Mr. Chan of Quincy, a petition (accompanied by bill, House, No. 328) of Tackey Chan and others relative to debt collection licensure. Consumer Protection and Professional Licensure.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 3949 OF 2019-2020.]

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Second General Court
(2021-2022)**

An Act relative to debt collection licensure.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. This act shall be known as the “Debt Collection Licensure Parity Act.”

2 SECTION 2. Section 24 of chapter 93 of the General Laws is hereby amended in lines 17
3 through 59, inclusive, by striking the definition of “debt collector” in its entirety and inserting in
4 place thereof the following:

5 "Debt collector", any person who: (i) uses an instrumentality of interstate commerce or
6 the mails in any business the principal purpose of which is the collection of a debt, (ii) who
7 regularly collects or attempts to collect, directly or indirectly, a debt owed or due or asserted to
8 be owed or due another, or (iii) engages in any business the principal purpose of which is the
9 purchase of charged-off debt for collection purposes in the commonwealth, whether it collects
10 the debt itself, hires a third party for collection, or retains an attorney in order to collect such

11 debt. Notwithstanding this definition, a person who purchases charged-off debt as an investment
12 and exclusively contracts with a licensed debt collector or attorney for the collection of the debt
13 who has filed an application with the commissioner for a license and whose application remains
14 pending with the commissioner thereafter may continue to operate without a license until the
15 commissioner approves or denies the application. Notwithstanding the exclusion provided by
16 clause (f), debt collector shall include a creditor who, in the process of collecting his own debt,
17 uses any name other than his own which would indicate that a third person is collecting or
18 attempting to collect the debt. Debt collector shall also include a person who uses an
19 instrumentality of interstate commerce or the mails in a business the principal purpose of which
20 is the enforcement of security interests. Debt collector shall not include:

21 (a) an officer or employee of a creditor while, in the name of the creditor, collecting debts
22 for the creditor;

23 (b) a person while acting as a debt collector for another person, both of whom are related
24 by common ownership or affiliated by corporate control, if the person acting as a debt collector
25 does so only for a person to whom it is so related or affiliated and if the principal business of the
26 person is not the collection of a debt;

27 (c) an officer or employee of the United States or a state of the United States to the extent
28 that collecting or attempting to collect a debt is in the performance of his official duty;

29 (d) a person while serving or attempting to serve legal process on another person in
30 connection with the judicial enforcement of a debt;

31 (e) a nonprofit organization which, at the request of a consumer, performs bona fide
32 consumer credit counseling and assists the consumer in the liquidation of debts by receiving
33 payments from the consumer and distributing the amounts to creditors;

34 (f) a person collecting or attempting to collect a debt owed or due or asserted to be owed
35 or due another to the extent the activity (i) is incidental to a bona fide fiduciary obligation or a
36 bona fide escrow arrangement; (ii) concerns a debt which was originated by the person; (iii)
37 concerns a debt which was not in default at the time it was obtained by the person; or (iv)
38 concerns a debt obtained by the person as a secured party in a commercial credit transaction
39 involving the creditor;

40 (g) attorneys-at-law collecting a debt on behalf of a client; and

41 (h) an agent or independent contractor employed for the purpose of collecting a charge or
42 bill owed by a tenant to a landlord or owed by a customer to a corporation subject to the
43 supervision of the department of public utilities or the department of telecommunications and
44 cable or the division of insurance insofar as the person collects charges or bills only for the
45 landlord or supervised corporations.

46

47 SECTION 4. Section 24A of said chapter 93 is hereby amended by striking subsection (a)
48 in its entirety and inserting in place thereof the following:

49 (a) No person shall directly or indirectly engage in the commonwealth in the business of a
50 debt collector, or engage in the commonwealth in soliciting the right to collect or receive
51 payment for another of an account, bill or other indebtedness, or advertise for or solicit in print

52 the right to collect or receive payment for another of an account, bill or other indebtedness,
53 without first obtaining from the commissioner a license to carry on the business, nor unless the
54 person or the person for whom he or it may be acting as agent has on file with the state treasurer
55 a good and sufficient bond. Bonds shall not be required of any person who engages in any
56 business the principal purpose of which is the purchase of charged-off debt for collection
57 purposes and does not otherwise act as a third party debt collector.

58 SECTION 5. Section 24B of said chapter 93 is hereby amended by inserting at the end
59 thereof the following new subsection:

60 (d) The commissioner shall permit affiliated companies to be under a single license and
61 subject to a single examination as long as all of the affiliated company names are listed on the
62 license. The commissioner in regulation shall determine what constitutes an “affiliated
63 company”.

64

65 SECTION 6. This act shall not affect the validity of any collection actions taken, civil
66 actions or arbitrations commenced, or judgments entered prior to this date.

67 SECTION 7. This Act shall take effect after 120 days upon its passage.