

## HOUSE BILL No. 2837

By Committee on Commerce and Labor

2-7

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9 AN ACT concerning debt collectors; establishing requirements that debt  
10 collectors operating to collect debts in Kansas register with the sec-  
11 retary of state, post a surety bond and register a resident agent.  
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13 *Be it enacted by the Legislature of the State of Kansas:*

14 Section 1. As used in this act:

15 (a) "Collection agency" includes, but is not limited to:

16 (1) Any legal entity, including any individual, corporation, association,  
17 firm or partnership who uses any means to collect or attempt to collect,  
18 directly or indirectly, debts owed or due or assessed to be owed or due  
19 another; or

20 (2) any individual, corporation, association, firm or partnership who  
21 uses any name other than its own with the intention of conveying to the  
22 debtor that a third person is collecting or attempting to collect a debt.

23 (b) "Collection agency" does not include:

24 (1) Any officer or employee of a registrant under subparagraph (a)  
25 while, in the name of the registrant, is collecting debts for such registrant;

26 (2) any public body or any officer or employee of the United States  
27 or any state collecting or attempting to collect claims owed, due or as-  
28 serted to be owed or due to any public body;

29 (3) any public officer or individual acting under order of any court;  
30 or

31 (4) any legal entity or individual collecting debts on their own behalf  
32 as the principal creditor.

33 (c) "Person" means any individual, firm, partnership, limited liability  
34 company or corporation.

35 Sec. 2. (a) Any person desiring to operate as a collection agency in  
36 this state shall make an application to the secretary of state upon such  
37 forms as may be prescribed by the secretary of state. Such application  
38 shall include the following:

39 (1) If the applicant is an individual:

40 (A) The individual's name;

41 (B) the individual's residence address; and

42 (C) the address of each location from which the individual carries out  
43 the activities of the collection agency.

- 1 (2) If the applicant is a partnership:  
2 (A) The name of each partner;  
3 (B) the business address of the partnership;  
4 (C) the residence of each partner; and  
5 (D) the address of each location from which the partnership carries  
6 out the activities of the collection agency.
- 7 (3) If the applicant is a limited liability company;  
8 (A) The name of the limited liability company;  
9 (B) the date and place of organization;  
10 (C) the business address of the limited liability company; and  
11 (D) the residence address of each manager or member of the limited  
12 liability company.
- 13 (4) If the applicant is a corporation:  
14 (A) The name of the corporation;  
15 (B) the date and place of incorporation;  
16 (C) the business address of the corporation; and  
17 (D) the residence address of each officer of the corporation.
- 18 Sec. 3. (a) Any person desiring to operate as a collection agency in  
19 this state shall maintain a surety bond in the amount of \$25,000.00 issued  
20 by a surety company located in this state and authorized to do business  
21 in this state, or establish and maintain a surety account in the amount of  
22 \$25,000.00 at a federally insured bank, savings and loan association or  
23 federal savings bank located in this state and authorized to do business  
24 in this state. Each surety bond and surety account shall be subject to the  
25 following:
- 26 (1) A copy of the bon or a statement identifying the depository, trust-  
27 tee and account number of the surety account, and thereafter proof of  
28 annual renewal of the bond or maintenance of the surety account, shall  
29 be filed with the secretary of state. Each initial filing shall be accompanied  
30 by a filing fee of no more than \$500 to cover the cost of filing and ad-  
31 ministration, and each twelve-month renewal application shall be accom-  
32 panied by a filing fee of no more than \$250 to cover the cost of filing and  
33 administration. Failure to renew within 30 days of the twelve-month re-  
34 newal application filing deadline shall result in a \$250 penalty fee. Fees  
35 received under this act by the secretary of state shall be deposited in the  
36 state treasury to the credit of the information and copy service fee fund;
- 37 (2) a surety account shall be maintained until two years after the date  
38 that the collection agency ceases the collection of debts in the state. Funds  
39 from any surety account shall not be released to the collection agency  
40 without specific consent of the attorney general;
- 41 (3) no surety on a collection agency bond shall cancel such bond  
42 without giving at least 60 days written notice thereof to the secretary of  
43 state. When the secretary of state received notice of a surety's intention

1 to cancel a collection agency's bond, the secretary of state shall notify the  
2 affected collection agency within 30 days from receipt of the notice that,  
3 unless such collection agency files another \$25,000 surety bond with the  
4 secretary of state or establishes a \$25,000 surety account on or before the  
5 cancellation date of such collection agency's bond, then such collection  
6 agency will no longer be authorized to do business in this state;

7 (4) the bond or surety account shall be in favor of any person and the  
8 attorney general for the benefit of any person who is damaged by any  
9 violation of this act. The bond shall cover any violation occurring during  
10 the time period during which the bond is in effect; and

11 (5) any person claiming against the bond or surety account for a vi-  
12 olation of this act may maintain an action at law against the collection  
13 agency and against the surety or trustee of the surety account. The ag-  
14 gregate liability of the surety or trustee of the surety account to all persons  
15 damaged by violations of this act may not exceed the amount of the surety  
16 bond or account.

17 Sec. 4. (a) Any person desiring to operate as a collection agency in  
18 this state shall designate a resident agent, who is a resident of Kansas, for  
19 service of process and such resident shall register with the secretary of  
20 state pursuant to K.S.A. 60-306 and amendments thereto.

21 (b) The secretary of state shall keep in the secretary of state's office  
22 a record of all collection agencies registered under this act and all bonds  
23 required to be filed. The record shall be open to inspection as public  
24 records.

25 Sec. 5. (a) This act shall be known as the Kansas debt collector reg-  
26 istry act.

27 (b) This act shall be part of and supplemental to the Kansas consumer  
28 protection act.

29 (c) Any violation of this act shall constitute an unconscionable act and  
30 practice under the Kansas consumer protection act and amendments  
31 thereto and shall be subject to any and all of the remedies and enforce-  
32 ment provisions of the Kansas consumer protection act.

33 (d) The requirements and remedies of this act are in addition to and  
34 not in substitution for any other requirements and remedies provided by  
35 law.

36 Sec. 6. If any provision of this act or the application thereof to any  
37 person or circumstance is held invalid, the validity of such provision to  
38 other persons and circumstances shall not be affected hereby.

39 Sec. 7. This act shall take effect and be in force from and after its  
40 publication in the statute book.