

CERTIFICATION OF ENROLLMENT

ENGROSSED SUBSTITUTE HOUSE BILL 1864

Chapter 162, Laws of 2011

62nd Legislature
2011 Regular Session

DEBT COLLECTION

EFFECTIVE DATE: 07/22/11 - Except section 6, which becomes effective 01/01/18.

Passed by the House April 14, 2011
Yeas 57 Nays 40

FRANK CHOPP

Speaker of the House of Representatives

Passed by the Senate April 9, 2011
Yeas 37 Nays 12

BRAD OWEN

President of the Senate

Approved April 22, 2011, 2:18 p.m.

CHRISTINE GREGOIRE

Governor of the State of Washington

CERTIFICATE

I, Barbara Baker, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE HOUSE BILL 1864** as passed by the House of Representatives and the Senate on the dates hereon set forth.

BARBARA BAKER

Chief Clerk

FILED

April 22, 2011

**Secretary of State
State of Washington**

ENGROSSED SUBSTITUTE HOUSE BILL 1864

AS AMENDED BY THE SENATE

Passed Legislature - 2011 Regular Session

State of Washington 62nd Legislature 2011 Regular Session

By House Business & Financial Services (originally sponsored by Representatives Stanford, Frockt, Fitzgibbon, Ryu, Billig, Moscoso, Ladenburg, and Kenney)

READ FIRST TIME 02/17/11.

1 AN ACT Relating to debt collection; amending RCW 6.15.010,
2 6.15.020, 48.18.430, 6.27.140, and 6.27.140; reenacting and amending
3 RCW 19.16.250; and providing an effective date.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 19.16.250 and 2001 c 217 s 5 and 2001 c 47 s 2 are
6 each reenacted and amended to read as follows:

7 No licensee or employee of a licensee shall:

8 (1) Directly or indirectly aid or abet any unlicensed person to
9 engage in business as a collection agency in this state or receive
10 compensation from such unlicensed person: PROVIDED, That nothing in
11 this chapter shall prevent a licensee from accepting, as forwarder,
12 claims for collection from a collection agency or attorney whose place
13 of business is outside the state.

14 (2) Collect or attempt to collect a claim by the use of any means
15 contrary to the postal laws and regulations of the United States postal
16 department.

17 (3) Publish or post or cause to be published or posted, any list of
18 debtors commonly known as "bad debt lists" or threaten to do so. For
19 purposes of this chapter, a "bad debt list" means any list of natural

1 persons alleged to fail to honor their lawful debts. However, nothing
2 herein shall be construed to prohibit a licensee from communicating to
3 its customers or clients by means of a coded list, the existence of a
4 check dishonored because of insufficient funds, not sufficient funds or
5 closed account by the financial institution servicing the debtor's
6 checking account: PROVIDED, That the debtor's identity is not readily
7 apparent: PROVIDED FURTHER, That the licensee complies with the
8 requirements of subsection (9)(e) of this section.

9 (4) Have in his possession or make use of any badge, use a uniform
10 of any law enforcement agency or any simulation thereof, or make any
11 statements which might be construed as indicating an official
12 connection with any federal, state, county, or city law enforcement
13 agency, or any other governmental agency, while engaged in collection
14 agency business.

15 (5) Perform any act or acts, either directly or indirectly,
16 constituting the practice of law.

17 (6) Advertise for sale or threaten to advertise for sale any claim
18 as a means of endeavoring to enforce payment thereof or agreeing to do
19 so for the purpose of soliciting claims, except where the licensee has
20 acquired claims as an assignee for the benefit of creditors or where
21 the licensee is acting under court order.

22 (7) Use any name while engaged in the making of a demand for any
23 claim other than the name set forth on his or its current license
24 issued hereunder.

25 (8) Give or send to any debtor or cause to be given or sent to any
26 debtor, any notice, letter, message, or form which represents or
27 implies that a claim exists unless it shall indicate in clear and
28 legible type:

29 (a) The name of the licensee and the city, street, and number at
30 which he is licensed to do business;

31 (b) The name of the original creditor to whom the debtor owed the
32 claim if such name is known to the licensee or employee: PROVIDED,
33 That upon written request of the debtor, the licensee shall (~~make a~~
34 ~~reasonable effort to obtain the name of such person and~~) provide this
35 name to the debtor or cease efforts to collect on the debt until this
36 information is provided;

37 (c) If the notice, letter, message, or form is the first notice to

1 the debtor or if the licensee is attempting to collect a different
2 amount than indicated in his or its first notice to the debtor, an
3 itemization of the claim asserted must be made including:

4 (i) Amount owing on the original obligation at the time it was
5 received by the licensee for collection or by assignment;

6 (ii) Interest or service charge, collection costs, or late payment
7 charges, if any, added to the original obligation by the original
8 creditor, customer or assignor before it was received by the licensee
9 for collection, if such information is known by the licensee or
10 employee: PROVIDED, That upon written request of the debtor, the
11 licensee shall make a reasonable effort to obtain information on such
12 items and provide this information to the debtor;

13 (iii) Interest or service charge, if any, added by the licensee or
14 customer or assignor after the obligation was received by the licensee
15 for collection;

16 (iv) Collection costs, if any, that the licensee is attempting to
17 collect;

18 (v) Attorneys' fees, if any, that the licensee is attempting to
19 collect on his or its behalf or on the behalf of a customer or
20 assignor; and

21 (vi) Any other charge or fee that the licensee is attempting to
22 collect on his or its own behalf or on the behalf of a customer or
23 assignor;

24 (d) If the notice, letter, message, or form is the first notice to
25 the debtor, an itemization of the claim asserted must be made including
26 the following information:

27 (i) The original account number or redacted original account number
28 assigned to the debt, if known to the licensee or employee: PROVIDED,
29 That upon written request of the debtor, the licensee must make a
30 reasonable effort to obtain this information or cease efforts to
31 collect on the debt until this information is provided; and

32 (ii) The date of the last payment to the creditor on the subject
33 debt by the debtor, if known to the licensee or employee: PROVIDED,
34 That upon written request of the debtor, the licensee must make a
35 reasonable effort to obtain this information or cease efforts to
36 collect on the debt until this information is provided.

37 (9) Communicate or threaten to communicate, the existence of a

1 claim to a person other than one who might be reasonably expected to be
2 liable on the claim in any manner other than through proper legal
3 action, process, or proceedings except under the following conditions:

4 (a) A licensee or employee of a licensee may inform a credit
5 reporting bureau of the existence of a claim: PROVIDED, That if the
6 licensee or employee of a licensee reports a claim to a credit
7 reporting bureau, the licensee shall upon receipt of written notice
8 from the debtor that any part of the claim is disputed, forward a copy
9 of such written notice to the credit reporting bureau;

10 (b) A licensee or employee in collecting or attempting to collect
11 a claim may communicate the existence of a claim to a debtor's employer
12 if the claim has been reduced to a judgment;

13 (c) A licensee or employee in collecting or attempting to collect
14 a claim that has not been reduced to judgment, may communicate the
15 existence of a claim to a debtor's employer if:

16 (i) The licensee or employee has notified or attempted to notify
17 the debtor in writing at his last known address or place of employment
18 concerning the claim and the debtor after a reasonable time has failed
19 to pay the claim or has failed to agree to make payments on the claim
20 in a manner acceptable to the licensee, and

21 (ii) The debtor has not in writing to the licensee disputed any
22 part of the claim: PROVIDED, That the licensee or employee may only
23 communicate the existence of a claim which has not been reduced to
24 judgment to the debtor's employer once unless the debtor's employer has
25 agreed to additional communications.

26 (d) A licensee may for the purpose of locating the debtor or
27 locating assets of the debtor communicate the existence of a claim to
28 any person who might reasonably be expected to have knowledge of the
29 whereabouts of a debtor or the location of assets of the debtor if the
30 claim is reduced to judgment, or if not reduced to judgment, when:

31 (i) The licensee or employee has notified or attempted to notify
32 the debtor in writing at his last known address or last known place of
33 employment concerning the claim and the debtor after a reasonable time
34 has failed to pay the claim or has failed to agree to make payments on
35 the claim in a manner acceptable to the licensee, and

36 (ii) The debtor has not in writing disputed any part of the claim.

37 (e) A licensee may communicate the existence of a claim to its

1 customers or clients if the claim is reduced to judgment, or if not
2 reduced to judgment, when:

3 (i) The licensee has notified or attempted to notify the debtor in
4 writing at his last known address or last known place of employment
5 concerning the claim and the debtor after a reasonable time has failed
6 to pay the claim or has failed to agree to make payments on the claim
7 in a manner acceptable to the licensee, and

8 (ii) The debtor has not in writing disputed any part of the claim.

9 (10) Threaten the debtor with impairment of his credit rating if a
10 claim is not paid.

11 (11) Communicate with the debtor after notification in writing from
12 an attorney representing such debtor that all further communications
13 relative to a claim should be addressed to the attorney: PROVIDED,
14 That if a licensee requests in writing information from an attorney
15 regarding such claim and the attorney does not respond within a
16 reasonable time, the licensee may communicate directly with the debtor
17 until he or it again receives notification in writing that an attorney
18 is representing the debtor.

19 (12) Communicate with a debtor or anyone else in such a manner as
20 to harass, intimidate, threaten, or embarrass a debtor, including but
21 not limited to communication at an unreasonable hour, with unreasonable
22 frequency, by threats of force or violence, by threats of criminal
23 prosecution, and by use of offensive language. A communication shall
24 be presumed to have been made for the purposes of harassment if:

25 (a) It is made with a debtor or spouse in any form, manner, or
26 place, more than three times in a single week;

27 (b) It is made with a debtor at his or her place of employment more
28 than one time in a single week;

29 (c) It is made with the debtor or spouse at his or her place of
30 residence between the hours of 9:00 p.m. and 7:30 a.m.

31 (13) Communicate with the debtor through use of forms or
32 instruments that simulate the form or appearance of judicial process,
33 the form or appearance of government documents, or the simulation of a
34 form or appearance of a telegraphic or emergency message.

35 (14) Communicate with the debtor and represent or imply that the
36 existing obligation of the debtor may be or has been increased by the
37 addition of attorney fees, investigation fees, service fees, or any

1 other fees or charges when in fact such fees or charges may not legally
2 be added to the existing obligation of such debtor.

3 (15) Threaten to take any action against the debtor which the
4 licensee cannot legally take at the time the threat is made.

5 (16) Send any telegram or make any telephone calls to a debtor or
6 concerning a debt or for the purpose of demanding payment of a claim or
7 seeking information about a debtor, for which the charges are payable
8 by the addressee or by the person to whom the call is made.

9 (17) In any manner convey the impression that the licensee is
10 vouched for, bonded to or by, or is an instrumentality of the state of
11 Washington or any agency or department thereof.

12 (18) Collect or attempt to collect in addition to the principal
13 amount of a claim any sum other than allowable interest, collection
14 costs or handling fees expressly authorized by statute, and, in the
15 case of suit, attorney's fees and taxable court costs. A licensee may
16 collect or attempt to collect collection costs and fees, including
17 contingent collection fees, as authorized by a written agreement or
18 contract, between the licensee's client and the debtor, in the
19 collection of a commercial claim. The amount charged to the debtor for
20 collection services shall not exceed thirty-five percent of the
21 commercial claim.

22 (19) Procure from a debtor or collect or attempt to collect on any
23 written note, contract, stipulation, promise or acknowledgment under
24 which a debtor may be required to pay any sum other than principal,
25 allowable interest, except as noted in subsection (18) of this section,
26 and, in the case of suit, attorney's fees and taxable court costs.

27 (20) Upon notification by a debtor that the debtor disputes all
28 debts arising from a series of dishonored checks, automated
29 clearinghouse transactions on a demand deposit account, or other
30 preprinted written instruments, initiate oral contact with a debtor
31 more than one time in an attempt to collect from the debtor debts
32 arising from the identified series of dishonored checks, automated
33 clearinghouse transactions on a demand deposit account, or other
34 preprinted written instruments when: (a) Within the previous one
35 hundred eighty days, in response to the licensee's attempt to collect
36 the initial debt assigned to the licensee and arising from the
37 identified series of dishonored checks, automated clearinghouse
38 transactions on a demand deposit account, or other preprinted written

1 instruments, the debtor in writing notified the licensee that the
2 debtor's checkbook or other series of preprinted written instruments
3 was stolen or fraudulently created; (b) the licensee has received from
4 the debtor a certified copy of a police report referencing the theft or
5 fraudulent creation of the checkbook, automated clearinghouse
6 transactions on a demand deposit account, or series of preprinted
7 written instruments; (c) in the written notification to the licensee or
8 in the police report, the debtor identified the financial institution
9 where the account was maintained, the account number, the magnetic ink
10 character recognition number, the full bank routing and transit number,
11 and the check numbers of the stolen checks, automated clearinghouse
12 transactions on a demand deposit account, or other preprinted written
13 instruments, which check numbers included the number of the check that
14 is the subject of the licensee's collection efforts; (d) the debtor
15 provides, or within the previous one hundred eighty days provided, to
16 the licensee a legible copy of a government-issued photo
17 identification, which contains the debtor's signature and which was
18 issued prior to the date of the theft or fraud identified in the police
19 report; and (e) the debtor advised the licensee that the subject debt
20 is disputed because the identified check, automated clearinghouse
21 transaction on a demand deposit account, or other preprinted written
22 instrument underlying the debt is a stolen or fraudulently created
23 check or instrument.

24 The licensee is not in violation of this subsection if the licensee
25 initiates oral contact with the debtor more than one time in an attempt
26 to collect debts arising from the identified series of dishonored
27 checks, automated clearinghouse transactions on a demand deposit
28 account, or other preprinted written instruments when: (i) The
29 licensee acted in good faith and relied on their established practices
30 and procedures for batching, recording, or packeting debtor accounts,
31 and the licensee inadvertently initiates oral contact with the debtor
32 in an attempt to collect debts in the identified series subsequent to
33 the initial debt assigned to the licensee; (ii) the licensee is
34 following up on collection of a debt assigned to the licensee, and the
35 debtor has previously requested more information from the licensee
36 regarding the subject debt; (iii) the debtor has notified the licensee
37 that the debtor disputes only some, but not all the debts arising from
38 the identified series of dishonored checks, automated clearinghouse

1 transactions on a demand deposit account, or other preprinted written
2 instruments, in which case the licensee shall be allowed to initiate
3 oral contact with the debtor one time for each debt arising from the
4 series of identified checks, automated clearinghouse transactions on a
5 demand deposit account, or written instruments and initiate additional
6 oral contact for those debts that the debtor acknowledges do not arise
7 from stolen or fraudulently created checks or written instruments; (iv)
8 the oral contact is in the context of a judicial, administrative,
9 arbitration, mediation, or similar proceeding; or (v) the oral contact
10 is made for the purpose of investigating, confirming, or authenticating
11 the information received from the debtor, to provide additional
12 information to the debtor, or to request additional information from
13 the debtor needed by the licensee to accurately record the debtor's
14 information in the licensee's records.

15 (21) Submit an affidavit or other request pursuant to chapter 6.32
16 RCW asking a superior or district court to transfer a bond posted by a
17 debtor subject to a money judgment to the licensee, when the debtor has
18 appeared as required.

19 **Sec. 2.** RCW 6.15.010 and 2005 c 272 s 6 are each amended to read
20 as follows:

21 (1) Except as provided in RCW 6.15.050, the following personal
22 property ~~((shall-be))~~ is exempt from execution, attachment, and
23 garnishment:

24 ~~((+1))~~ (a) All wearing apparel of every individual and family, but
25 not to exceed ~~((one))~~ three thousand five hundred dollars in value in
26 furs, jewelry, and personal ornaments for any individual.

27 ~~((+2))~~ (b) All private libraries including electronic media, which
28 includes audio-visual, entertainment, or reference media in digital or
29 analogue format, of every individual, but not to exceed ~~((fifteen~~
30 ~~hundred))~~ three thousand five hundred dollars in value, and all family
31 pictures and keepsakes.

32 ~~((+3))~~ (c) To each individual or, as to community property of
33 spouses maintaining a single household as against a creditor of the
34 community, to the community:

35 ~~((+a))~~ (i) The individual's or community's household goods,
36 appliances, furniture, and home and yard equipment, not to exceed
37 ~~((two))~~ six thousand ~~((seven))~~ five hundred dollars in value for the

1 individual or (~~(five)~~) thirteen thousand (~~(four hundred)~~) dollars for
2 the community, no single item to exceed seven hundred fifty dollars,
3 said amount to include provisions and fuel for the comfortable
4 maintenance of the individual or community;

5 (~~(b)~~) (ii) Other personal property, except personal earnings as
6 provided under RCW 6.15.050(1), not to exceed (~~(two)~~) three thousand
7 dollars in value, of which not more than (~~(two hundred)~~) one thousand
8 five hundred dollars in value may consist of cash, and of which not
9 more than (~~(two hundred dollars in value may consist of)~~):

10 (A) Until January 1, 2018:

11 (I) For debts owed to state agencies, two hundred dollars in value
12 may consist of bank accounts, savings and loan accounts, stocks, bonds,
13 or other securities. The maximum exemption under (c)(ii)(A) of this
14 subsection may not exceed two hundred dollars, regardless of the number
15 of existing separate bank accounts, savings and loan accounts, stocks,
16 bonds, or other securities.

17 (II) For all other debts, five hundred dollars in value may consist
18 of bank accounts, savings and loan accounts, stocks, bonds, or other
19 securities. The maximum exemption under (c)(ii)(B) of this subsection
20 may not exceed five hundred dollars, regardless of the number of
21 existing separate bank accounts, savings and loan accounts, stocks,
22 bonds, or other securities.

23 (B) After January 1, 2018: For all debts, five hundred dollars in
24 value may consist of bank accounts, savings and loan accounts, stocks,
25 bonds, or other securities. The maximum exemption under this
26 subsection (1)(c)(ii)(B) may not exceed five hundred dollars,
27 regardless of the number of existing separate bank accounts, savings
28 and loan accounts, stocks, bonds, or other securities;

29 (~~(c)~~) (iii) For an individual, a motor vehicle used for personal
30 transportation, not to exceed (~~(two)~~) three thousand (~~(five)~~) two
31 hundred fifty dollars or for a community two motor vehicles used for
32 personal transportation, not to exceed (~~(five)~~) six thousand five
33 hundred dollars in aggregate value;

34 (~~(d)~~) (iv) Any past due, current, or future child support paid or
35 owed to the debtor, which can be traced;

36 (~~(e)~~) (v) All professionally prescribed health aids for the
37 debtor or a dependent of the debtor; and

1 (~~(f)~~) (vi) To any individual, the right to or proceeds of a
2 payment not to exceed (~~(sixteen)~~) twenty thousand (~~(one hundred fifty)~~)
3 dollars on account of personal bodily injury, not including pain and
4 suffering or compensation for actual pecuniary loss, of the debtor or
5 an individual of whom the debtor is a dependent; or the right to or
6 proceeds of a payment in compensation of loss of future earnings of the
7 debtor or an individual of whom the debtor is or was a dependent, to
8 the extent reasonably necessary for the support of the debtor and any
9 dependent of the debtor. The exemption under this subsection
10 (~~(3)(f)~~) (1)(c)(vi) does not apply to the right of the state of
11 Washington, or any agent or assignee of the state, as a lienholder or
12 subrogee under RCW 43.20B.060.

13 (~~(4)~~) (d) To each qualified individual, one of the following
14 exemptions:

15 (~~(a)~~) (i) To a farmer, farm trucks, farm stock, farm tools, farm
16 equipment, supplies and seed, not to exceed (~~(five)~~) ten thousand
17 dollars in value;

18 (~~(b)~~) (ii) To a physician, surgeon, attorney, clergyman, or other
19 professional person, the individual's library, office furniture, office
20 equipment and supplies, not to exceed (~~(five)~~) ten thousand dollars in
21 value;

22 (~~(c)~~) (iii) To any other individual, the tools and instruments
23 and materials used to carry on his or her trade for the support of
24 himself or herself or family, not to exceed (~~(five)~~) ten thousand
25 dollars in value.

26 (e) Tuition units, under chapter 28B.95 RCW, purchased more than
27 two years prior to the date of a bankruptcy filing or court judgment,
28 and contributions to any other qualified tuition program under 26
29 U.S.C. Sec. 529 of the internal revenue code of 1986, as amended, and
30 to a Coverdell education savings account, also known as an education
31 individual retirement account, under 26 U.S.C. Sec. 530 of the internal
32 revenue code of 1986, as amended, contributed more than two years prior
33 to the date of a bankruptcy filing or court judgment.

34 (2) For purposes of this section, "value" means the reasonable
35 market value of the debtor's interest in an article or item at the time
36 it is selected for exemption, exclusive of all liens and encumbrances
37 thereon.

1 ((~~(5) Tuition units, under chapter 28B.95 RCW, purchased more than~~
2 ~~two years prior to the date of a bankruptcy filing or court judgment.~~))

3 **Sec. 3.** RCW 6.15.020 and 2007 c 492 s 1 are each amended to read
4 as follows:

5 (1) It is the policy of the state of Washington to ensure the well-
6 being of its citizens by protecting retirement income to which they are
7 or may become entitled. For that purpose generally and pursuant to the
8 authority granted to the state of Washington under 11 U.S.C. Sec.
9 522(b)(2), the exemptions in this section relating to retirement
10 benefits are provided.

11 (2) Unless otherwise provided by federal law, any money received by
12 any citizen of the state of Washington as a pension from the government
13 of the United States, whether the same be in the actual possession of
14 such person or be deposited or loaned, shall be exempt from execution,
15 attachment, garnishment, or seizure by or under any legal process
16 whatever, and when a debtor dies, or absconds, and leaves his or her
17 family any money exempted by this subsection, the same shall be exempt
18 to the family as provided in this subsection. This subsection shall
19 not apply to child support collection actions issued under chapter
20 26.18, 26.23, or 74.20A RCW, if otherwise permitted by federal law.

21 (3) The right of a person to a pension, annuity, or retirement
22 allowance or disability allowance, or death benefits, or any optional
23 benefit, or any other right accrued or accruing to any citizen of the
24 state of Washington under any employee benefit plan, and any fund
25 created by such a plan or arrangement, shall be exempt from execution,
26 attachment, garnishment, or seizure by or under any legal process
27 whatever. This subsection shall not apply to child support collection
28 actions issued under chapter 26.18, 26.23, or 74.20A RCW if otherwise
29 permitted by federal law. This subsection shall permit benefits under
30 any such plan or arrangement to be payable to a spouse, former spouse,
31 child, or other dependent of a participant in such plan to the extent
32 expressly provided for in a qualified domestic relations order that
33 meets the requirements for such orders under the plan, or, in the case
34 of benefits payable under a plan described in (~~sections~~) 26 U.S.C.
35 Sec. 403(b) or 408 of the internal revenue code of 1986, as amended, or
36 section 409 of such code as in effect before January 1, 1984, to the
37 extent provided in any order issued by a court of competent

1 jurisdiction that provides for maintenance or support. This subsection
2 (~~shall~~) does not prohibit actions against an employee benefit plan,
3 or fund for valid obligations incurred by the plan or fund for the
4 benefit of the plan or fund.

5 (4) For the purposes of this section, the term "employee benefit
6 plan" means any plan or arrangement that is described in RCW 49.64.020,
7 including any Keogh plan, whether funded by a trust or by an annuity
8 contract, and in (~~sections~~) 26 U.S.C. Sec. 401(a) or 403(a) of the
9 internal revenue code of 1986, as amended; or that is a tax-sheltered
10 annuity or a custodial account described in section 403(b) of such code
11 or an individual retirement account or an individual retirement annuity
12 described in section 408 of such code; or a Roth individual retirement
13 account described in section 408A of such code; or a medical savings
14 account or a health savings account described in sections 220 and 223,
15 respectively, of such code; (~~or an education individual retirement~~
16 ~~account described in section 530 of such code;~~) or a retirement bond
17 described in section 409 of such code as in effect before January 1,
18 1984. (~~The term "employee benefit plan" also means any rights~~
19 ~~accruing on account of money paid currently or in advance for purchase~~
20 ~~of tuition units under the advanced college tuition payment program in~~
21 ~~chapter 28B.95 RCW.)) The term "employee benefit plan" shall not
22 include any employee benefit plan that is established or maintained for
23 its employees by the government of the United States, by the state of
24 Washington under chapter 2.10, 2.12, 41.26, 41.32, 41.34, 41.35, 41.37,
25 41.40, or 43.43 RCW or RCW 41.50.770, or by any agency or
26 instrumentality of the government of the United States.~~

27 (5) An employee benefit plan shall be deemed to be a spendthrift
28 trust, regardless of the source of funds, the relationship between the
29 trustee or custodian of the plan and the beneficiary, or the ability of
30 the debtor to withdraw or borrow or otherwise become entitled to
31 benefits from the plan before retirement. This subsection shall not
32 apply to child support collection actions issued under chapter 26.18,
33 26.23, or 74.20A RCW, if otherwise permitted by federal law. This
34 subsection shall permit benefits under any such plan or arrangement to
35 be payable to a spouse, former spouse, child, or other dependent of a
36 participant in such plan to the extent expressly provided for in a
37 qualified domestic relations order that meets the requirements for such
38 orders under the plan, or, in the case of benefits payable under a plan

1 described in (~~sections~~) 26 U.S.C. Sec. 403(b) or 408 of the internal
2 revenue code of 1986, as amended, or section 409 of such code as in
3 effect before January 1, 1984, to the extent provided in any order
4 issued by a court of competent jurisdiction that provides for
5 maintenance or support.

6 (6) Unless (~~contrary to applicable~~) prohibited by federal law,
7 nothing contained in subsection (3), (4), or (5) of this section shall
8 be construed as a termination or limitation of a spouse's community
9 property interest in an (~~individual retirement account~~) employee
10 benefit plan held in the name of or on account of the other spouse, who
11 is the participant or the account holder spouse. Unless prohibited by
12 applicable federal law, at the death of the nonparticipant, nonaccount
13 holder spouse, the nonparticipant, nonaccount holder spouse may
14 transfer or distribute the community property interest of the
15 nonparticipant, nonaccount holder spouse in the participant or account
16 holder spouse's (~~individual retirement account~~) employee benefit plan
17 to the nonparticipant, nonaccount holder spouse's estate, testamentary
18 trust, inter vivos trust, or other successor or successors pursuant to
19 the last will of the nonparticipant, nonaccount holder spouse or the
20 law of intestate succession, and that distributee may, but shall not be
21 required to, obtain an order of a court of competent jurisdiction,
22 including a nonjudicial (~~dispute resolution~~) binding agreement or
23 (~~other~~) order entered under chapter 11.96A RCW, to confirm the
24 distribution. For purposes of subsection (3) of this section, the
25 distributee of the nonparticipant, nonaccount holder spouse's community
26 property interest in an (~~individual retirement account~~) employee
27 benefit plan shall be considered a person entitled to the full
28 protection of subsection (3) of this section. The nonparticipant,
29 nonaccount holder spouse's consent to a beneficiary designation by the
30 participant or account holder spouse with respect to an (~~individual~~
31 ~~retirement account~~) employee benefit plan shall not, absent clear and
32 convincing evidence to the contrary, be deemed a release, gift,
33 relinquishment, termination, limitation, or transfer of the
34 nonparticipant, nonaccount holder spouse's community property interest
35 in an (~~individual retirement account~~) employee benefit plan. For
36 purposes of this subsection, the term "nonparticipant, nonaccount
37 holder spouse" means the spouse of the person who is a participant in
38 an employee benefit plan or in whose name (~~the~~) an individual

1 retirement account is maintained. (~~The term "individual retirement~~
2 ~~account" includes an individual retirement account and an individual~~
3 ~~retirement annuity both as described in section 408 of the internal~~
4 ~~revenue code of 1986, as amended, a Roth individual retirement account~~
5 ~~as described in section 408A of the internal revenue code of 1986, as~~
6 ~~amended, and an individual retirement bond as described in section 409~~
7 ~~of the internal revenue code as in effect before January 1, 1984.)) As
8 used in this subsection, an order of a court of competent jurisdiction
9 entered under chapter 11.96A RCW includes an agreement, as that term is
10 used under RCW 11.96A.220.~~

11 **Sec. 4.** RCW 48.18.430 and 2005 c 223 s 10 are each amended to read
12 as follows:

13 (1) The benefits, rights, privileges, and options under any annuity
14 contract that are due the annuitant who paid the consideration for the
15 annuity contract are not subject to execution and the annuitant may not
16 be compelled to exercise those rights, powers, or options, and
17 creditors are not allowed to interfere with or terminate the contract,
18 except:

19 (a) As to amounts paid for or as premium on an annuity with intent
20 to defraud creditors, with interest thereon, and of which the creditor
21 has given the insurer written notice at its home office prior to making
22 the payments to the annuitant out of which the creditor seeks to
23 recover. The notice must specify the amount claimed or the facts that
24 will enable the insurer to determine the amount, and must set forth the
25 facts that will enable the insurer to determine the insurance or
26 annuity contract, the person insured or annuitant and the payments
27 sought to be avoided on the basis of fraud.

28 (b) The total exemption of benefits presently due and payable to an
29 annuitant periodically or at stated times under all annuity contracts
30 may not at any time exceed (~~two~~) three thousand (~~five hundred~~)
31 dollars per month for the length of time represented by the
32 installments, and a periodic payment in excess of (~~two~~) three
33 thousand (~~five hundred~~) dollars per month is subject to garnishee
34 execution to the same extent as are wages and salaries.

35 (c) If the total benefits presently due and payable to an annuitant
36 under all annuity contracts at any time exceeds payment at the rate of
37 (~~two~~) three thousand (~~five hundred~~) dollars per month, then the

1 court may order the annuitant to pay to a judgment creditor or apply on
2 the judgment, in installments, the portion of the excess benefits that
3 the court determines to be just and proper, after due regard for the
4 reasonable requirements of the judgment debtor and the judgment
5 debtor's dependent family, as well as any payments required to be made
6 by the annuitant to other creditors under prior court orders.

7 (2) The benefits, rights, privileges, or options accruing under an
8 annuity contract to a beneficiary or assignee are not transferable or
9 subject to commutation, and if the benefits are payable periodically or
10 at stated times, the same exemptions and exceptions contained in this
11 section for the annuitant apply to the beneficiary or assignee.

12 (3) An annuity contract within the meaning of this section is any
13 obligation to pay certain sums at stated times, during life or lives,
14 or for a specified term or terms, issued for a valuable consideration,
15 regardless of whether or not the sums are payable to one or more
16 persons, jointly or otherwise, but does not include payments under life
17 insurance contracts at stated times during life or lives, or for a
18 specified term or terms.

19 **Sec. 5.** RCW 6.27.140 and 2010 1st sp.s. c 26 s 2 are each amended
20 to read as follows:

21 (1) The notice required by RCW 6.27.130(1) to be mailed to or
22 served on an individual judgment debtor shall be in the following form,
23 printed or typed in type no smaller than elite type:

24 NOTICE OF GARNISHMENT
25 AND OF YOUR RIGHTS

26 A Writ of Garnishment issued in a Washington court has been or
27 will be served on the garnishee named in the attached copy of
28 the writ. After receipt of the writ, the garnishee is required
29 to withhold payment of any money that was due to you and to
30 withhold any other property of yours that the garnishee held or
31 controlled. This notice of your rights is required by law.

32 YOU HAVE THE FOLLOWING EXEMPTION RIGHTS:

33 WAGES. If the garnishee is your employer who owes wages or
34 other personal earnings to you, your employer is required to
35 pay amounts to you that are exempt under state and federal
36 laws, as explained in the writ of garnishment. You should
37 receive a copy of your employer's answer, which will show how

1 the exempt amount was calculated. If the garnishment is for
2 child support, the exempt amount paid to you will be forty
3 percent of wages due you, but if you are supporting a spouse,
4 state registered domestic partner, or dependent child, you are
5 entitled to claim an additional ten percent as exempt.

6 BANK ACCOUNTS. If the garnishee is a bank or other institution
7 with which you have an account in which you have deposited
8 benefits such as Temporary Assistance for Needy Families,
9 Supplemental Security Income (SSI), Social Security, veterans'
10 benefits, unemployment compensation, or a United States
11 pension, you may claim the account as fully exempt if you have
12 deposited only such benefit funds in the account. It may be
13 partially exempt even though you have deposited money from
14 other sources in the same account. An exemption is also
15 available under RCW 26.16.200, providing that funds in a
16 community bank account that can be identified as the earnings
17 of a stepparent are exempt from a garnishment on the child
18 support obligation of the parent.

19 OTHER EXEMPTIONS. If the garnishee holds other property of
20 yours, some or all of it may be exempt under RCW 6.15.010, a
21 Washington statute that exempts certain property of your choice
22 (including (~~specified cash or~~) money in a bank account up to
23 \$200.00 for debts owed to state agencies, or up to \$500.00 for
24 all other debts) and certain other property such as household
25 furnishings, tools of trade, and a motor vehicle (all limited
26 by differing dollar values).

27 HOW TO CLAIM EXEMPTIONS. Fill out the enclosed claim form and
28 mail or deliver it as described in instructions on the claim
29 form. If the plaintiff does not object to your claim, the
30 funds or other property that you have claimed as exempt must be
31 released not later than 10 days after the plaintiff receives
32 your claim form. If the plaintiff objects, the law requires a
33 hearing not later than 14 days after the plaintiff receives
34 your claim form, and notice of the objection and hearing date
35 will be mailed to you at the address that you put on the claim
36 form.

1 THE LAW ALSO PROVIDES OTHER EXEMPTION RIGHTS. IF NECESSARY, AN
2 ATTORNEY CAN ASSIST YOU TO ASSERT THESE AND OTHER RIGHTS, BUT
3 YOU MUST ACT IMMEDIATELY TO AVOID LOSS OF RIGHTS BY DELAY.

4 (2) The claim form required by RCW 6.27.130(1) to be mailed to or
5 served on an individual judgment debtor shall be in the following form,
6 printed or typed in type no smaller than elite type:

7 [Caption to be filled in by judgment creditor
8 or plaintiff before mailing.]

9
10 Name of Court
11 No.....
12 Plaintiff,
13 vs.
14 EXEMPTION CLAIM
15 Defendant,
16
17 Garnishee Defendant

18 INSTRUCTIONS:

- 19 1. Read this whole form after reading the enclosed
20 notice. Then put an X in the box or boxes that
21 describe your exemption claim or claims and write in
22 the necessary information on the blank lines. If
23 additional space is needed, use the bottom of the last
24 page or attach another sheet.

1 2. Make two copies of the completed form. Deliver the
2 original form by first-class mail or in person to the
3 clerk of the court, whose address is shown at the
4 bottom of the writ of garnishment. Deliver one of
5 the copies by first-class mail or in person to the
6 plaintiff or plaintiff's attorney, whose name and
7 address are shown at the bottom of the writ. Keep
8 the other copy. YOU SHOULD DO THIS AS
9 QUICKLY AS POSSIBLE, BUT NO LATER
10 THAN 28 DAYS (4 WEEKS) AFTER THE DATE
11 ON THE WRIT.

12 I/We claim the following money or property as exempt:

13 IF BANK ACCOUNT IS GARNISHED:

14 [] The account contains payments from:

15 [] Temporary assistance for needy families, SSI, or
16 other public assistance. I receive \$ monthly.

17 [] Social Security. I receive \$ monthly.

18 [] Veterans' Benefits. I receive \$ monthly.

19 [] U.S. Government Pension. I receive \$
20 monthly.

21 [] Unemployment Compensation. I receive \$
22 monthly.

23 [] Child support. I receive \$ monthly.

24 [] Other. Explain
25

26 IF EXEMPTION IN BANK ACCOUNT IS CLAIMED,
27 ANSWER ONE OR BOTH OF THE FOLLOWING:

28 [] No money other than from above payments are in
29 the account.

30 [] Moneys in addition to the above payments have
31 been deposited in the account. Explain
32
33

34 IF EARNINGS ARE GARNISHED FOR CHILD
35 SUPPORT:

1 that a bank account is exempt, you may have to show the judge your bank
2 statements and papers that show the source of the money you deposited
3 in the bank. Your claim may be granted more quickly if you attach
4 copies of such proof to your claim.

5 IF THE JUDGE DENIES YOUR EXEMPTION CLAIM, YOU WILL HAVE TO PAY THE
6 PLAINTIFF'S COSTS. IF THE JUDGE DECIDES THAT YOU DID NOT MAKE THE
7 CLAIM IN GOOD FAITH, HE OR SHE MAY DECIDE THAT YOU MUST PAY THE
8 PLAINTIFF'S ATTORNEY FEES.

9 **Sec. 6.** RCW 6.27.140 and 2011 c ... s 5 (section 5 of this act)
10 are each amended to read as follows:

11 (1) The notice required by RCW 6.27.130(1) to be mailed to or
12 served on an individual judgment debtor shall be in the following form,
13 printed or typed in type no smaller than elite type:

14 NOTICE OF GARNISHMENT
15 AND OF YOUR RIGHTS

16 A Writ of Garnishment issued in a Washington court has been or
17 will be served on the garnishee named in the attached copy of
18 the writ. After receipt of the writ, the garnishee is required
19 to withhold payment of any money that was due to you and to
20 withhold any other property of yours that the garnishee held or
21 controlled. This notice of your rights is required by law.

22 YOU HAVE THE FOLLOWING EXEMPTION RIGHTS:

23 WAGES. If the garnishee is your employer who owes wages or
24 other personal earnings to you, your employer is required to
25 pay amounts to you that are exempt under state and federal
26 laws, as explained in the writ of garnishment. You should
27 receive a copy of your employer's answer, which will show how
28 the exempt amount was calculated. If the garnishment is for
29 child support, the exempt amount paid to you will be forty
30 percent of wages due you, but if you are supporting a spouse,
31 state registered domestic partner, or dependent child, you are
32 entitled to claim an additional ten percent as exempt.

33 BANK ACCOUNTS. If the garnishee is a bank or other institution
34 with which you have an account in which you have deposited
35 benefits such as Temporary Assistance for Needy Families,

1 Supplemental Security Income (SSI), Social Security, veterans'
2 benefits, unemployment compensation, or a United States
3 pension, you may claim the account as fully exempt if you have
4 deposited only such benefit funds in the account. It may be
5 partially exempt even though you have deposited money from
6 other sources in the same account. An exemption is also
7 available under RCW 26.16.200, providing that funds in a
8 community bank account that can be identified as the earnings
9 of a stepparent are exempt from a garnishment on the child
10 support obligation of the parent.

11 OTHER EXEMPTIONS. If the garnishee holds other property of
12 yours, some or all of it may be exempt under RCW 6.15.010, a
13 Washington statute that exempts certain property of your choice
14 (including ~~((money))~~ up to \$500.00 in a bank account ~~((up to~~
15 ~~\$200.00 for debts owed to state agencies, or up to \$500.00 for~~
16 ~~all other debts))) and certain other property such as household
17 furnishings, tools of trade, and a motor vehicle (all limited
18 by differing dollar values).~~

19 HOW TO CLAIM EXEMPTIONS. Fill out the enclosed claim form and
20 mail or deliver it as described in instructions on the claim
21 form. If the plaintiff does not object to your claim, the
22 funds or other property that you have claimed as exempt must be
23 released not later than 10 days after the plaintiff receives
24 your claim form. If the plaintiff objects, the law requires a
25 hearing not later than 14 days after the plaintiff receives
26 your claim form, and notice of the objection and hearing date
27 will be mailed to you at the address that you put on the claim
28 form.

29 THE LAW ALSO PROVIDES OTHER EXEMPTION RIGHTS. IF NECESSARY, AN
30 ATTORNEY CAN ASSIST YOU TO ASSERT THESE AND OTHER RIGHTS, BUT
31 YOU MUST ACT IMMEDIATELY TO AVOID LOSS OF RIGHTS BY DELAY.

32 (2) The claim form required by RCW 6.27.130(1) to be mailed to or
33 served on an individual judgment debtor shall be in the following form,
34 printed or typed in type no smaller than elite type:

[Caption to be filled in by judgment creditor
or plaintiff before mailing.]

.....
Name of Court

..... No

Plaintiff,

vs.

..... EXEMPTION CLAIM

Defendant,

.....

Garnishee Defendant

INSTRUCTIONS:

1. Read this whole form after reading the enclosed notice. Then put an X in the box or boxes that describe your exemption claim or claims and write in the necessary information on the blank lines. If additional space is needed, use the bottom of the last page or attach another sheet.
2. Make two copies of the completed form. Deliver the original form by first-class mail or in person to the clerk of the court, whose address is shown at the bottom of the writ of garnishment. Deliver one of the copies by first-class mail or in person to the plaintiff or plaintiff's attorney, whose name and address are shown at the bottom of the writ. Keep the other copy. YOU SHOULD DO THIS AS QUICKLY AS POSSIBLE, BUT NO LATER THAN 28 DAYS (4 WEEKS) AFTER THE DATE ON THE WRIT.

I/We claim the following money or property as exempt:

IF BANK ACCOUNT IS GARNISHED:

The account contains payments from:

Temporary assistance for needy families, SSI, or other public assistance. I receive \$..... monthly.

| | | |
|----|------------------|-----------------------------|
| 1 | ..... | ..... |
| 2 | Print: Your name | If married or in a state |
| 3 | | registered domestic |
| 4 | | partnership, |
| 5 | | name of husband/wife/state |
| 6 | | registered domestic partner |
| 7 | ..... | ..... |
| 8 | Your signature | Signature of husband, |
| 9 | | wife, or state registered |
| 10 | | domestic partner |
| 11 | ..... | ..... |
| 12 | ..... | ..... |
| 13 | Address | Address |
| 14 | | (if different from yours) |
| 15 | ..... | ..... |
| 16 | Telephone number | Telephone number |
| 17 | | (if different from yours) |

18 CAUTION: If the plaintiff objects to your claim, you will have to
19 go to court and give proof of your claim. For example, if you claim
20 that a bank account is exempt, you may have to show the judge your bank
21 statements and papers that show the source of the money you deposited
22 in the bank. Your claim may be granted more quickly if you attach
23 copies of such proof to your claim.

24 IF THE JUDGE DENIES YOUR EXEMPTION CLAIM, YOU WILL HAVE TO PAY THE
25 PLAINTIFF'S COSTS. IF THE JUDGE DECIDES THAT YOU DID NOT MAKE THE
26 CLAIM IN GOOD FAITH, HE OR SHE MAY DECIDE THAT YOU MUST PAY THE
27 PLAINTIFF'S ATTORNEY FEES.

28 NEW SECTION. **Sec. 7.** Section 6 of this act takes effect January
29 1, 2018.

Passed by the House April 14, 2011.
Passed by the Senate April 9, 2011.
Approved by the Governor April 22, 2011.
Filed in Office of Secretary of State April 22, 2011.