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**HOUSE BILL 2476**

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**State of Washington**

**66th Legislature**

**2020 Regular Session**

**By** Representatives Walen, Duerr, Kloba, Kilduff, Leavitt, Lekanoff, Orwall, Davis, Doglio, Frame, Macri, Goodman, and Ormsby

Read first time 01/15/20. Referred to Committee on Civil Rights & Judiciary.

1 AN ACT Relating to debt buyers; amending RCW 19.16.100,  
2 19.16.260, 19.16.440, and 19.16.450; and creating a new section.

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

4 **Sec. 1.** RCW 19.16.100 and 2019 c 227 s 3 are each amended to  
5 read as follows:

6 Unless a different meaning is plainly required by the context,  
7 the following words and phrases as hereinafter used in this chapter  
8 shall have the following meanings:

- 9 (1) "Board" means the Washington state collection agency board.
- 10 (2) "Claim" means any obligation for the payment of money or  
11 thing of value arising out of any agreement or contract, express or  
12 implied.
- 13 (3) "Client" or "customer" means any person authorizing or  
14 employing a collection agency to collect a claim.
- 15 (4) "Collection agency" means and includes:
- 16 (a) Any person directly or indirectly engaged in soliciting  
17 claims for collection, or collecting or attempting to collect claims  
18 owed or due or asserted to be owed or due another person;
- 19 (b) Any person who directly or indirectly furnishes or attempts  
20 to furnish, sells, or offers to sell forms represented to be a  
21 collection system or scheme intended or calculated to be used to

1 collect claims even though the forms direct the debtor to make  
2 payment to the creditor and even though the forms may be or are  
3 actually used by the creditor himself or herself in his or her own  
4 name;

5 (c) Any person who in attempting to collect or in collecting his  
6 or her own claim uses a fictitious name or any name other than his or  
7 her own which would indicate to the debtor that a third person is  
8 collecting or attempting to collect such claim;

9 ~~(d) ((Any person or entity that is engaged in the business of  
10 purchasing delinquent or charged off claims for collection purposes,  
11 whether it collects the claims itself or hires a third party for  
12 collection or an attorney for litigation in order to collect such  
13 claims;))~~ A debt buyer as defined in this section;

14 (e) Any person or entity attempting to enforce a lien under  
15 chapter 60.44 RCW, other than the person or entity originally  
16 entitled to the lien.

17 (5) "Collection agency" does not mean and does not include:

18 (a) Any individual engaged in soliciting claims for collection,  
19 or collecting or attempting to collect claims on behalf of a licensee  
20 under this chapter, if said individual is an employee of the  
21 licensee;

22 (b) Any individual collecting or attempting to collect claims for  
23 not more than one employer, if all the collection efforts are carried  
24 on in the name of the employer and if the individual is an employee  
25 of the employer;

26 (c) Any person whose collection activities are carried on in his,  
27 her, or its true name and are confined and are directly related to  
28 the operation of a business other than that of a collection agency,  
29 such as but not limited to: Trust companies; savings and loan  
30 associations; building and loan associations; abstract companies  
31 doing an escrow business; real estate brokers; property management  
32 companies collecting assessments, charges, or fines on behalf of  
33 condominium unit owners associations, associations of apartment  
34 owners, or homeowners' associations; public officers acting in their  
35 official capacities; persons acting under court order; lawyers;  
36 insurance companies; credit unions; loan or finance companies;  
37 mortgage banks; and banks;

38 (d) Any person who on behalf of another person prepares or mails  
39 monthly or periodic statements of accounts due if all payments are

1 made to that other person and no other collection efforts are made by  
2 the person preparing the statements of account;

3 (e) An "out-of-state collection agency" as defined in this  
4 chapter; or

5 (f) Any person while acting as a debt collector for another  
6 person, both of whom are related by common ownership or affiliated by  
7 corporate control, if the person acting as a debt collector does so  
8 only for persons to whom it is so related or affiliated and if the  
9 principal business of the person is not the collection of debts.

10 (6) "Commercial claim" means any obligation for payment of money  
11 or thing of value arising out of any agreement or contract, express  
12 or implied, where the transaction which is the subject of the  
13 agreement or contract is not primarily for personal, family, or  
14 household purposes.

15 (7) "Debt buyer" means any person or entity that is engaged in  
16 the business of purchasing delinquent or charged off claims for  
17 collection purposes, whether it collects the claims itself or hires a  
18 third party for collection or an attorney for litigation in order to  
19 collect such claims.

20 (8) "Debtor" means any person owing or alleged to owe a claim.

21 ~~((+8))~~ (9) "Director" means the director of licensing.

22 ~~((+9))~~ (10) "Licensee" means any person licensed under this  
23 chapter.

24 ~~((+10))~~ (11) "Medical debt" means any obligation for the payment  
25 of money arising out of any agreement or contract, express or  
26 implied, for the provision of health care services as defined in RCW  
27 48.44.010. In the context of "medical debt," "charity care" has the  
28 same meaning as provided in RCW 70.170.020.

29 ~~((+11))~~ (12) "Out-of-state collection agency" means a person  
30 whose activities within this state are limited to collecting debts  
31 from debtors located in this state by means of interstate  
32 communications, including telephone, mail, or facsimile transmission,  
33 from the person's location in another state on behalf of clients  
34 located outside of this state, but does not include any person who is  
35 excluded from the definition of the term "debt collector" under the  
36 federal fair debt collection practices act (15 U.S.C. Sec. 1692a(6)).

37 ~~((+12))~~ (13) "Person" includes individual, firm, partnership,  
38 trust, joint venture, association, or corporation.

39 ~~((+13))~~ (14) "Statement of account" means a report setting forth  
40 only amounts billed, invoices, credits allowed, or aged balance due.

1       **Sec. 2.** RCW 19.16.260 and 2013 c 148 s 3 are each amended to  
2 read as follows:

3       (1)(a) No collection agency or out-of-state collection agency may  
4 bring or maintain an action in any court of this state involving the  
5 collection of its own claim or a claim of any third party without  
6 alleging and proving that he, she, or it is duly licensed under this  
7 chapter and has satisfied the bonding requirements hereof, if  
8 applicable: PROVIDED, That in any case where judgment is to be  
9 entered by default, it shall not be necessary for the collection  
10 agency or out-of-state collection agency to prove such matters.

11       (b) A copy of the current collection agency license or out-of-  
12 state collection agency license, certified by the director to be a  
13 true and correct copy of the original, shall be prima facie evidence  
14 of the licensing and bonding of such collection agency or out-of-  
15 state collection agency as required by this chapter.

16       (2) No debt buyer may:

17       (a) Bring any legal action against a debtor without attaching to  
18 the complaint a copy of the contract or other writing evidencing the  
19 original debt that contains the signature of the debtor, or:

20       (i) If a claim is based on a credit card debt for which a signed  
21 writing evidencing the original debt does not exist, a copy of the  
22 terms and conditions in place at the time of the last statement  
23 activity and a copy of the most recent monthly statement recording a  
24 purchase transaction, payment, or balance transfer; or

25       (ii) If a claim is based on an electronic transaction for which a  
26 signed writing evidencing the original debt never existed, a copy of  
27 the records created during the transaction evidencing the debtor's  
28 agreement to the debt and recording the date and terms of the  
29 transaction and information provided by the debtor during the  
30 transaction.

31       (b) Request a default judgment against a debtor in any legal  
32 action without providing to the court evidence that satisfies the  
33 requirements of rule 803(a)(6) of the rules of evidence and RCW  
34 5.45.020 or is otherwise authorized by law or rule that establishes  
35 the amount and nature of the debt, including the documents required  
36 by (a) of this subsection, and:

37       (i) The original account number at charge-off;

38       (ii) The original creditor at charge-off;

39       (iii) The amount due at charge-off or, if the balance has not  
40 been charged off, an itemization of the amount claimed to be owed,

1 including the principal, interest, fees, and other charges or  
2 reductions from payment made or other credits;

3 (iv) An itemization of post charge-off additions, if any;

4 (v) The date of the last payment, if applicable, or the date of  
5 the last transaction;

6 (vi) If the account is not a revolving credit account, the date  
7 the debt was incurred; and

8 (vii) A copy of the assignment or other writing establishing that  
9 the debt buyer is the owner of the debt. If the debt was assigned  
10 more than once, each assignment or other writing evidencing transfer  
11 of ownership must be attached to establish an unbroken chain of  
12 ownership, beginning with the original creditor to the first debt  
13 buyer and each subsequent sale.

14 (c) Bring any legal action against a debtor without providing a  
15 disclosure in the complaint, prominently displayed, stating each of  
16 the following:

17 (i) That the action is being brought by, or for the benefit of, a  
18 person or entity that is engaged in the business of purchasing  
19 delinquent or charged off claims for collection purposes;

20 (ii) The date the claim or obligation was purchased;

21 (iii) The identity of the person or entity from whom or which the  
22 claim or obligation was purchased;

23 (iv) That the plaintiff may have purchased this claim or  
24 obligation for considerably less than its face value;

25 (v) If the claim or obligation was at any time sold without any  
26 representation or warranty of accuracy, a statement to that effect;  
27 and

28 (vi) That the action is being commenced within, and is not barred  
29 by, the applicable statute of limitations.

30 **Sec. 3.** RCW 19.16.440 and 1994 c 195 s 11 are each amended to  
31 read as follows:

32 The operation of a collection agency or out-of-state collection  
33 agency without a license as prohibited by RCW 19.16.110 and the  
34 commission by a licensee or an employee of a licensee of an act or  
35 practice prohibited by RCW 19.16.250 or 19.16.260 are declared to be  
36 unfair acts or practices or unfair methods of competition in the  
37 conduct of trade or commerce for the purpose of the application of  
38 the ((Consumer Protection Act)) consumer protection act found in  
39 chapter 19.86 RCW.

1       **Sec. 4.** RCW 19.16.450 and 1971 ex.s. c 253 s 36 are each amended  
2 to read as follows:

3       If an act or practice in violation of RCW 19.16.250 or 19.16.260  
4 is committed by a licensee or an employee of a licensee in the  
5 collection of a claim, neither the licensee, the customer of the  
6 licensee, nor any other person who may thereafter legally seek to  
7 collect on such claim shall ever be allowed to recover any interest,  
8 service charge, attorneys' fees, collection costs, delinquency  
9 charge, or any other fees or charges otherwise legally chargeable to  
10 the debtor on such claim: PROVIDED, That any person asserting the  
11 claim may nevertheless recover from the debtor the amount of the  
12 original claim or obligation.

13       NEW SECTION.   **Sec. 5.** This act applies prospectively only and  
14 not retroactively. It applies with respect to delinquent or charged  
15 off claims purchased for collection purposes by a debt buyer on or  
16 after the effective date of this section.

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