
SUBSTITUTE HOUSE BILL 1945

State of Washington

56th Legislature

2000 Regular Session

By House Committee on Financial Institutions & Insurance (originally sponsored by Representatives O'Brien and Koster)

Read first time 02/01/2000. Referred to Committee on .

1 AN ACT Relating to collection agencies; and amending RCW 19.16.100
2 and 19.16.250.

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

4 **Sec. 1.** RCW 19.16.100 and 1994 c 195 s 1 are each amended to read
5 as follows:

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

9 (1) "Person" includes individual, firm, partnership, trust, joint
10 venture, association, or corporation.

11 (2) "Collection agency" means and includes:

12 (a) Any person directly or indirectly engaged in soliciting claims
13 for collection, or collecting or attempting to collect claims owed or
14 due or asserted to be owed or due another person;

15 (b) Any person who directly or indirectly furnishes or attempts to
16 furnish, sells, or offers to sell forms represented to be a collection
17 system or scheme intended or calculated to be used to collect claims
18 even though the forms direct the debtor to make payment to the creditor

1 and even though the forms may be or are actually used by the creditor
2 himself in his own name;

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

7 (3) "Collection agency" does not mean and does not include:

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

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

15 (c) Any person whose collection activities are carried on in his or
16 its true name and are confined and are directly related to the
17 operation of a business other than that of a collection agency, such as
18 but not limited to trust companies, savings and loan associations,
19 building and loan associations, abstract companies doing an escrow
20 business, real estate brokers, public officers acting in their official
21 capacities, persons acting under court order, lawyers, insurance
22 companies, credit unions, loan or finance companies, mortgage banks,
23 and banks;

24 (d) Any person who on behalf of another person prepares or mails
25 monthly or periodic statements of accounts due if all payments are made
26 to that other person and no other collection efforts are made by the
27 person preparing the statements of account; or

28 (e) An "out-of-state collection agency" as defined in this chapter.

29 (4) "Out-of-state collection agency" means a person whose
30 activities within this state are limited to collecting debts from
31 debtors located in this state by means of interstate communications,
32 including telephone, mail, or facsimile transmission, from the person's
33 location in another state on behalf of clients located outside of this
34 state.

35 (5) "Claim" means any obligation for the payment of money or thing
36 of value arising out of any agreement or contract, express or implied.

37 (6) "Statement of account" means a report setting forth only
38 amounts billed, invoices, credits allowed, or aged balance due.

39 (7) "Director" means the director of licensing.

1 (8) "Client" or "customer" means any person authorizing or
2 employing a collection agency to collect a claim.

3 (9) "Licensee" means any person licensed under this chapter.

4 (10) "Board" means the Washington state collection agency board.

5 (11) "Debtor" means any person owing or alleged to owe a claim.

6 (12) "Commercial claim" means any obligation for payment of money
7 or thing of value arising out of any agreement or contract, express or
8 implied, where the transaction which is the subject of the agreement or
9 contract is not primarily for personal, family, or household purposes,
10 whether or not such obligation has been reduced to judgment.

11 **Sec. 2.** RCW 19.16.250 and 1983 c 107 s 1 are each amended to read
12 as follows:

13 No licensee or employee of a licensee shall:

14 (1) Directly or indirectly aid or abet any unlicensed person to
15 engage in business as a collection agency in this state or receive
16 compensation from such unlicensed person: PROVIDED, That nothing in
17 this chapter shall prevent a licensee from accepting, as forwarder,
18 claims for collection from a collection agency or attorney whose place
19 of business is outside the state.

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

23 (3) Publish or post or cause to be published or posted, any list of
24 debtors commonly known as "bad debt lists" or threaten to do so. For
25 purposes of this chapter, a "bad debt list" means any list of natural
26 persons alleged to fail to honor their lawful debts. However, nothing
27 herein shall be construed to prohibit a licensee from communicating to
28 its customers or clients by means of a coded list, the existence of a
29 check dishonored because of insufficient funds, not sufficient funds or
30 closed account by the financial institution servicing the debtor's
31 checking account: PROVIDED, That the debtor's identity is not readily
32 apparent: PROVIDED FURTHER, That the licensee complies with the
33 requirements of subsection (9)(e) of this section.

34 (4) Have in his possession or make use of any badge, use a uniform
35 of any law enforcement agency or any simulation thereof, or make any
36 statements which might be construed as indicating an official
37 connection with any federal, state, county, or city law enforcement

1 agency, or any other governmental agency, while engaged in collection
2 agency business.

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

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

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

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

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

19 (b) The name of the original creditor to whom the debtor owed the
20 claim if such name is known to the licensee or employee: PROVIDED,
21 That upon written request of the debtor, the licensee shall make a
22 reasonable effort to obtain the name of such person and provide this
23 name to the debtor;

24 (c) If the notice, letter, message, or form is the first notice to
25 the debtor or if the licensee is attempting to collect a different
26 amount than indicated in his or its first notice to the debtor, an
27 itemization of the claim asserted must be made including:

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

30 (ii) Interest or service charge, collection costs, or late payment
31 charges, if any, added to the original obligation by the original
32 creditor, customer or assignor before it was received by the licensee
33 for collection, if such information is known by the licensee or
34 employee: PROVIDED, That upon written request of the debtor, the
35 licensee shall make a reasonable effort to obtain information on such
36 items and provide this information to the debtor;

37 (iii) Interest or service charge, if any, added by the licensee or
38 customer or assignor after the obligation was received by the licensee
39 for collection;

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

3 (v) Attorneys' fees, if any, that the licensee is attempting to
4 collect on his or its behalf or on the behalf of a customer or
5 assignor;

6 (vi) Any other charge or fee that the licensee is attempting to
7 collect on his or its own behalf or on the behalf of a customer or
8 assignor.

9 (9) Communicate or threaten to communicate, the existence of a
10 claim to a person other than one who might be reasonably expected to be
11 liable on the claim in any manner other than through proper legal
12 action, process, or proceedings except under the following conditions:

13 (a) A licensee or employee of a licensee may inform a credit
14 reporting bureau of the existence of a claim: PROVIDED, That if the
15 licensee or employee of a licensee reports a claim to a credit
16 reporting bureau, the licensee shall upon receipt of written notice
17 from the debtor that any part of the claim is disputed, forward a copy
18 of such written notice to the credit reporting bureau;

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

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

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

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

35 (d) A licensee may for the purpose of locating the debtor or
36 locating assets of the debtor communicate the existence of a claim to
37 any person who might reasonably be expected to have knowledge of the
38 whereabouts of a debtor or the location of assets of the debtor if the
39 claim is reduced to judgment, or if not reduced to judgment, when:

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

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

7 (e) A licensee may communicate the existence of a claim to its
8 customers or clients if the claim is reduced to judgment, or if not
9 reduced to judgment, when:

10 (i) The licensee has notified or attempted to notify the debtor in
11 writing at his last known address or last known place of employment
12 concerning the claim and the debtor after a reasonable time has failed
13 to pay the claim or has failed to agree to make payments on the claim
14 in a manner acceptable to the licensee, and

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

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

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

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

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

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

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

38 (13) Communicate with the debtor through use of forms or
39 instruments that simulate the form or appearance of judicial process,

1 the form or appearance of government documents, or the simulation of a
2 form or appearance of a telegraphic or emergency message.

3 (14) Communicate with the debtor and represent or imply that the
4 existing obligation of the debtor may be or has been increased by the
5 addition of attorney fees, investigation fees, service fees, or any
6 other fees or charges when in fact such fees or charges may not legally
7 be added to the existing obligation of such debtor.

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

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

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

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

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

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