
HOUSE BILL 2325

State of Washington 58th Legislature 2004 Regular Session

By Representatives Wood, Condotta, O'Brien, Hankins and Moeller

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Committee on Commerce & Labor.

1 AN ACT Relating to prohibited practices of collection agencies;
2 reenacting and amending RCW 19.16.250; providing an effective date; and
3 declaring an emergency.

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;

36 (c) If the notice, letter, message, or form is the first notice to
37 the debtor or if the licensee is attempting to collect a different

1 amount than indicated in his or its first notice to the debtor, an
2 itemization of the claim asserted must be made including:

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

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

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

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

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

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

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

27 (a) A licensee or employee of a licensee may inform a credit
28 reporting bureau of the existence of a claim: PROVIDED, That if the
29 licensee or employee of a licensee reports a claim to a credit
30 reporting bureau, the licensee shall upon receipt of written notice
31 from the debtor that any part of the claim is disputed, forward a copy
32 of such written notice to the credit reporting bureau;

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

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

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

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

11 (d) A licensee may for the purpose of locating the debtor or
12 locating assets of the debtor communicate the existence of a claim to
13 any person who might reasonably be expected to have knowledge of the
14 whereabouts of a debtor or the location of assets of the debtor if the
15 claim is reduced to judgment, or if not reduced to judgment, when:

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

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

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

25 (i) The licensee has notified or attempted to notify the debtor in
26 writing at his last known address or last known 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 disputed any part of the claim.

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

33 (11) Communicate with the debtor after notification in writing from
34 an attorney representing such debtor that all further communications
35 relative to a claim should be addressed to the attorney: PROVIDED,
36 That if a licensee requests in writing information from an attorney
37 regarding such claim and the attorney does not respond within a

1 reasonable time, the licensee may communicate directly with the debtor
2 until he or it again receives notification in writing that an attorney
3 is representing the debtor.

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

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

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

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

16 (d) It is made with a person other than the debtor or the debtor's
17 spouse:

18 (i) Without informing the person of the licensee's name, street
19 address, and telephone number at any time;

20 (ii) At a place other than the debtor's place of employment or the
21 debtor's place of residence more than one time in a calendar year; or

22 (iii) After the person other than the debtor or the debtor's spouse
23 notifies the licensee in writing to cease and desist from communicating
24 with him or her.

25 (13) Communicate with the debtor through use of forms or
26 instruments that simulate the form or appearance of judicial process,
27 the form or appearance of government documents, or the simulation of a
28 form or appearance of a telegraphic or emergency message.

29 (14) Communicate with the debtor and represent or imply that the
30 existing obligation of the debtor may be or has been increased by the
31 addition of attorney fees, investigation fees, service fees, or any
32 other fees or charges when in fact such fees or charges may not legally
33 be added to the existing obligation of such debtor.

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

36 (16) Send any telegram or make any telephone calls to a debtor or
37 concerning a debt or for the purpose of demanding payment of a claim or

1 seeking information about a debtor, for which the charges are payable
2 by the addressee or by the person to whom the call is made.

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

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

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

21 (20) Upon notification by a debtor that the debtor disputes all
22 debts arising from a series of dishonored checks, automated
23 clearinghouse transactions on a demand deposit account, or other
24 preprinted written instruments, initiate oral contact with a debtor
25 more than one time in an attempt to collect from the debtor debts
26 arising from the identified series of dishonored checks, automated
27 clearinghouse transactions on a demand deposit account, or other
28 preprinted written instruments when: (a) Within the previous one
29 hundred eighty days, in response to the licensee's attempt to collect
30 the initial debt assigned to the licensee and arising from the
31 identified series of dishonored checks, automated clearinghouse
32 transactions on a demand deposit account, or other preprinted written
33 instruments, the debtor in writing notified the licensee that the
34 debtor's checkbook or other series of preprinted written instruments
35 was stolen or fraudulently created; (b) the licensee has received from
36 the debtor a certified copy of a police report referencing the theft or
37 fraudulent creation of the checkbook, automated clearinghouse
38 transactions on a demand deposit account, or series of preprinted

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

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

1 from stolen or fraudulently created checks or written instruments; (iv)
2 the oral contact is in the context of a judicial, administrative,
3 arbitration, mediation, or similar proceeding; or (v) the oral contact
4 is made for the purpose of investigating, confirming, or authenticating
5 the information received from the debtor, to provide additional
6 information to the debtor, or to request additional information from
7 the debtor needed by the licensee to accurately record the debtor's
8 information in the licensee's records.

9 NEW SECTION. **Sec. 2.** This act is necessary for the immediate
10 preservation of the public peace, health, or safety, or support of the
11 state government and its existing public institutions, and takes effect
12 April 1, 2004.

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