

ESHB 1864 - S COMM AMD
By Committee on Judiciary

ADOPTED 04/09/2011

1 Strike everything after the enacting clause and insert the
2 following:

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

5 No licensee or employee of a licensee shall:

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

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

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

26 (4) Have in his possession or make use of any badge, use a uniform
27 of any law enforcement agency or any simulation thereof, or make any
28 statements which might be construed as indicating an official
29 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 or cease efforts to collect on the debt until this
24 information is provided;

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

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

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

1 (iii) Interest or service charge, if any, added by the licensee or
2 customer or assignor after the obligation was received by the licensee
3 for collection;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

36 (11) Communicate with the debtor after notification in writing from
37 an attorney representing such debtor that all further communications
38 relative to a claim should be addressed to the attorney: PROVIDED,

1 That if a licensee requests in writing information from an attorney
2 regarding such claim and the attorney does not respond within a
3 reasonable time, the licensee may communicate directly with the debtor
4 until he or it again receives notification in writing that an attorney
5 is representing the debtor.

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

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

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

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

18 (13) Communicate with the debtor through use of forms or
19 instruments that simulate the form or appearance of judicial process,
20 the form or appearance of government documents, or the simulation of a
21 form or appearance of a telegraphic or emergency message.

22 (14) Communicate with the debtor and represent or imply that the
23 existing obligation of the debtor may be or has been increased by the
24 addition of attorney fees, investigation fees, service fees, or any
25 other fees or charges when in fact such fees or charges may not legally
26 be added to the existing obligation of such debtor.

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

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

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

36 (18) Collect or attempt to collect in addition to the principal
37 amount of a claim any sum other than allowable interest, collection
38 costs or handling fees expressly authorized by statute, and, in the

1 case of suit, attorney's fees and taxable court costs. A licensee may
2 collect or attempt to collect collection costs and fees, including
3 contingent collection fees, as authorized by a written agreement or
4 contract, between the licensee's client and the debtor, in the
5 collection of a commercial claim. The amount charged to the debtor for
6 collection services shall not exceed thirty-five percent of the
7 commercial claim.

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

13 (20) Upon notification by a debtor that the debtor disputes all
14 debts arising from a series of dishonored checks, automated
15 clearinghouse transactions on a demand deposit account, or other
16 preprinted written instruments, initiate oral contact with a debtor
17 more than one time in an attempt to collect from the debtor debts
18 arising from the identified series of dishonored checks, automated
19 clearinghouse transactions on a demand deposit account, or other
20 preprinted written instruments when: (a) Within the previous one
21 hundred eighty days, in response to the licensee's attempt to collect
22 the initial debt assigned to the licensee and arising from the
23 identified series of dishonored checks, automated clearinghouse
24 transactions on a demand deposit account, or other preprinted written
25 instruments, the debtor in writing notified the licensee that the
26 debtor's checkbook or other series of preprinted written instruments
27 was stolen or fraudulently created; (b) the licensee has received from
28 the debtor a certified copy of a police report referencing the theft or
29 fraudulent creation of the checkbook, automated clearinghouse
30 transactions on a demand deposit account, or series of preprinted
31 written instruments; (c) in the written notification to the licensee or
32 in the police report, the debtor identified the financial institution
33 where the account was maintained, the account number, the magnetic ink
34 character recognition number, the full bank routing and transit number,
35 and the check numbers of the stolen checks, automated clearinghouse
36 transactions on a demand deposit account, or other preprinted written
37 instruments, which check numbers included the number of the check that
38 is the subject of the licensee's collection efforts; (d) the debtor

1 provides, or within the previous one hundred eighty days provided, to
2 the licensee a legible copy of a government-issued photo
3 identification, which contains the debtor's signature and which was
4 issued prior to the date of the theft or fraud identified in the police
5 report; and (e) the debtor advised the licensee that the subject debt
6 is disputed because the identified check, automated clearinghouse
7 transaction on a demand deposit account, or other preprinted written
8 instrument underlying the debt is a stolen or fraudulently created
9 check or instrument.

10 The licensee is not in violation of this subsection if the licensee
11 initiates oral contact with the debtor more than one time in an attempt
12 to collect debts arising from the identified series of dishonored
13 checks, automated clearinghouse transactions on a demand deposit
14 account, or other preprinted written instruments when: (i) The
15 licensee acted in good faith and relied on their established practices
16 and procedures for batching, recording, or packeting debtor accounts,
17 and the licensee inadvertently initiates oral contact with the debtor
18 in an attempt to collect debts in the identified series subsequent to
19 the initial debt assigned to the licensee; (ii) the licensee is
20 following up on collection of a debt assigned to the licensee, and the
21 debtor has previously requested more information from the licensee
22 regarding the subject debt; (iii) the debtor has notified the licensee
23 that the debtor disputes only some, but not all the debts arising from
24 the identified series of dishonored checks, automated clearinghouse
25 transactions on a demand deposit account, or other preprinted written
26 instruments, in which case the licensee shall be allowed to initiate
27 oral contact with the debtor one time for each debt arising from the
28 series of identified checks, automated clearinghouse transactions on a
29 demand deposit account, or written instruments and initiate additional
30 oral contact for those debts that the debtor acknowledges do not arise
31 from stolen or fraudulently created checks or written instruments; (iv)
32 the oral contact is in the context of a judicial, administrative,
33 arbitration, mediation, or similar proceeding; or (v) the oral contact
34 is made for the purpose of investigating, confirming, or authenticating
35 the information received from the debtor, to provide additional
36 information to the debtor, or to request additional information from
37 the debtor needed by the licensee to accurately record the debtor's
38 information in the licensee's records.

1 subsection may not exceed two hundred dollars, regardless of the number
2 of existing separate bank accounts, savings and loan accounts, stocks,
3 bonds, or other securities.

4 (II) For all other debts, five hundred dollars in value may consist
5 of bank accounts, savings and loan accounts, stocks, bonds, or other
6 securities. The maximum exemption under (c)(ii)(B) of this subsection
7 may not exceed five hundred dollars, regardless of the number of
8 existing separate bank accounts, savings and loan accounts, stocks,
9 bonds, or other securities.

10 (B) After January 1, 2018: For all debts, five hundred dollars in
11 value may consist of bank accounts, savings and loan accounts, stocks,
12 bonds, or other securities. The maximum exemption under this
13 subsection (1)(c)(ii)(B) may not exceed five hundred dollars,
14 regardless of the number of existing separate bank accounts, savings
15 and loan accounts, stocks, bonds, or other securities;

16 ~~((+e))~~ (iii) For an individual, a motor vehicle used for personal
17 transportation, not to exceed ~~((+two))~~ three thousand ~~((+five))~~ two
18 hundred fifty dollars or for a community two motor vehicles used for
19 personal transportation, not to exceed ~~((+five))~~ six thousand five
20 hundred dollars in aggregate value;

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

23 ~~((+e))~~ (v) All professionally prescribed health aids for the
24 debtor or a dependent of the debtor; and

25 ~~((+f))~~ (vi) To any individual, the right to or proceeds of a
26 payment not to exceed ~~((+sixteen))~~ twenty thousand ~~((+one hundred fifty))~~
27 dollars on account of personal bodily injury, not including pain and
28 suffering or compensation for actual pecuniary loss, of the debtor or
29 an individual of whom the debtor is a dependent; or the right to or
30 proceeds of a payment in compensation of loss of future earnings of the
31 debtor or an individual of whom the debtor is or was a dependent, to
32 the extent reasonably necessary for the support of the debtor and any
33 dependent of the debtor. The exemption under this subsection

34 ~~((+3)+f))~~ (1)(c)(vi) does not apply to the right of the state of
35 Washington, or any agent or assignee of the state, as a lienholder or
36 subrogee under RCW 43.20B.060.

37 ~~((+4))~~ (d) To each qualified individual, one of the following
38 exemptions:

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

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

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

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

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

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

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

28 (1) It is the policy of the state of Washington to ensure the well-
29 being of its citizens by protecting retirement income to which they are
30 or may become entitled. For that purpose generally and pursuant to the
31 authority granted to the state of Washington under 11 U.S.C. Sec.
32 522(b)(2), the exemptions in this section relating to retirement
33 benefits are provided.

34 (2) Unless otherwise provided by federal law, any money received by
35 any citizen of the state of Washington as a pension from the government
36 of the United States, whether the same be in the actual possession of
37 such person or be deposited or loaned, shall be exempt from execution,

1 attachment, garnishment, or seizure by or under any legal process
2 whatever, and when a debtor dies, or absconds, and leaves his or her
3 family any money exempted by this subsection, the same shall be exempt
4 to the family as provided in this subsection. This subsection shall
5 not apply to child support collection actions issued under chapter
6 26.18, 26.23, or 74.20A RCW, if otherwise permitted by federal law.

7 (3) The right of a person to a pension, annuity, or retirement
8 allowance or disability allowance, or death benefits, or any optional
9 benefit, or any other right accrued or accruing to any citizen of the
10 state of Washington under any employee benefit plan, and any fund
11 created by such a plan or arrangement, shall be exempt from execution,
12 attachment, garnishment, or seizure by or under any legal process
13 whatever. This subsection shall not apply to child support collection
14 actions issued under chapter 26.18, 26.23, or 74.20A RCW if otherwise
15 permitted by federal law. This subsection shall permit benefits under
16 any such plan or arrangement to be payable to a spouse, former spouse,
17 child, or other dependent of a participant in such plan to the extent
18 expressly provided for in a qualified domestic relations order that
19 meets the requirements for such orders under the plan, or, in the case
20 of benefits payable under a plan described in (~~sections~~) 26 U.S.C.
21 Sec. 403(b) or 408 of the internal revenue code of 1986, as amended, or
22 section 409 of such code as in effect before January 1, 1984, to the
23 extent provided in any order issued by a court of competent
24 jurisdiction that provides for maintenance or support. This subsection
25 (~~shall~~) does not prohibit actions against an employee benefit plan,
26 or fund for valid obligations incurred by the plan or fund for the
27 benefit of the plan or fund.

28 (4) For the purposes of this section, the term "employee benefit
29 plan" means any plan or arrangement that is described in RCW 49.64.020,
30 including any Keogh plan, whether funded by a trust or by an annuity
31 contract, and in (~~sections~~) 26 U.S.C. Sec. 401(a) or 403(a) of the
32 internal revenue code of 1986, as amended; or that is a tax-sheltered
33 annuity or a custodial account described in section 403(b) of such code
34 or an individual retirement account or an individual retirement annuity
35 described in section 408 of such code; or a Roth individual retirement
36 account described in section 408A of such code; or a medical savings
37 account or a health savings account described in sections 220 and 223,
38 respectively, of such code; (~~or an education individual retirement~~

1 ~~account described in section 530 of such code~~) or a retirement bond
2 described in section 409 of such code as in effect before January 1,
3 1984. (~~The term "employee benefit plan" also means any rights~~
4 ~~accruing on account of money paid currently or in advance for purchase~~
5 ~~of tuition units under the advanced college tuition payment program in~~
6 ~~chapter 28B.95 RCW.)) The term "employee benefit plan" shall not
7 include any employee benefit plan that is established or maintained for
8 its employees by the government of the United States, by the state of
9 Washington under chapter 2.10, 2.12, 41.26, 41.32, 41.34, 41.35, 41.37,
10 41.40, or 43.43 RCW or RCW 41.50.770, or by any agency or
11 instrumentality of the government of the United States.~~

12 (5) An employee benefit plan shall be deemed to be a spendthrift
13 trust, regardless of the source of funds, the relationship between the
14 trustee or custodian of the plan and the beneficiary, or the ability of
15 the debtor to withdraw or borrow or otherwise become entitled to
16 benefits from the plan before retirement. This subsection shall not
17 apply to child support collection actions issued under chapter 26.18,
18 26.23, or 74.20A RCW, if otherwise permitted by federal law. This
19 subsection shall permit benefits under any such plan or arrangement to
20 be payable to a spouse, former spouse, child, or other dependent of a
21 participant in such plan to the extent expressly provided for in a
22 qualified domestic relations order that meets the requirements for such
23 orders under the plan, or, in the case of benefits payable under a plan
24 described in (~~sections~~) 26 U.S.C. Sec. 403(b) or 408 of the internal
25 revenue code of 1986, as amended, or section 409 of such code as in
26 effect before January 1, 1984, to the extent provided in any order
27 issued by a court of competent jurisdiction that provides for
28 maintenance or support.

29 (6) Unless (~~contrary to applicable~~) prohibited by federal law,
30 nothing contained in subsection (3), (4), or (5) of this section shall
31 be construed as a termination or limitation of a spouse's community
32 property interest in an (~~individual retirement account~~) employee
33 benefit plan held in the name of or on account of the other spouse, who
34 is the participant or the account holder spouse. Unless prohibited by
35 applicable federal law, at the death of the nonparticipant, nonaccount
36 holder spouse, the nonparticipant, nonaccount holder spouse may
37 transfer or distribute the community property interest of the
38 nonparticipant, nonaccount holder spouse in the participant or account

1 holder spouse's (~~((individual retirement account))~~) employee benefit plan
2 to the nonparticipant, nonaccount holder spouse's estate, testamentary
3 trust, inter vivos trust, or other successor or successors pursuant to
4 the last will of the nonparticipant, nonaccount holder spouse or the
5 law of intestate succession, and that distributee may, but shall not be
6 required to, obtain an order of a court of competent jurisdiction,
7 including a nonjudicial (~~((dispute resolution))~~) binding agreement or
8 (~~((other))~~) order entered under chapter 11.96A RCW, to confirm the
9 distribution. For purposes of subsection (3) of this section, the
10 distributee of the nonparticipant, nonaccount holder spouse's community
11 property interest in an (~~((individual retirement account))~~) employee
12 benefit plan shall be considered a person entitled to the full
13 protection of subsection (3) of this section. The nonparticipant,
14 nonaccount holder spouse's consent to a beneficiary designation by the
15 participant or account holder spouse with respect to an (~~((individual~~
16 ~~retirement account))~~) employee benefit plan shall not, absent clear and
17 convincing evidence to the contrary, be deemed a release, gift,
18 relinquishment, termination, limitation, or transfer of the
19 nonparticipant, nonaccount holder spouse's community property interest
20 in an (~~((individual retirement account))~~) employee benefit plan. For
21 purposes of this subsection, the term "nonparticipant, nonaccount
22 holder spouse" means the spouse of the person who is a participant in
23 an employee benefit plan or in whose name (~~((the))~~) an individual
24 retirement account is maintained. (~~((The term "individual retirement~~
25 ~~account" includes an individual retirement account and an individual~~
26 ~~retirement annuity both as described in section 408 of the internal~~
27 ~~revenue code of 1986, as amended, a Roth individual retirement account~~
28 ~~as described in section 408A of the internal revenue code of 1986, as~~
29 ~~amended, and an individual retirement bond as described in section 409~~
30 ~~of the internal revenue code as in effect before January 1, 1984.))~~) As
31 used in this subsection, an order of a court of competent jurisdiction
32 entered under chapter 11.96A RCW includes an agreement, as that term is
33 used under RCW 11.96A.220.

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

36 (1) The benefits, rights, privileges, and options under any annuity
37 contract that are due the annuitant who paid the consideration for the

1 annuity contract are not subject to execution and the annuitant may not
2 be compelled to exercise those rights, powers, or options, and
3 creditors are not allowed to interfere with or terminate the contract,
4 except:

5 (a) As to amounts paid for or as premium on an annuity with intent
6 to defraud creditors, with interest thereon, and of which the creditor
7 has given the insurer written notice at its home office prior to making
8 the payments to the annuitant out of which the creditor seeks to
9 recover. The notice must specify the amount claimed or the facts that
10 will enable the insurer to determine the amount, and must set forth the
11 facts that will enable the insurer to determine the insurance or
12 annuity contract, the person insured or annuitant and the payments
13 sought to be avoided on the basis of fraud.

14 (b) The total exemption of benefits presently due and payable to an
15 annuitant periodically or at stated times under all annuity contracts
16 may not at any time exceed ((two)) three thousand ((five-hundred))
17 dollars per month for the length of time represented by the
18 installments, and a periodic payment in excess of ((two)) three
19 thousand ((five-hundred)) dollars per month is subject to garnishee
20 execution to the same extent as are wages and salaries.

21 (c) If the total benefits presently due and payable to an annuitant
22 under all annuity contracts at any time exceeds payment at the rate of
23 ((two)) three thousand ((five-hundred)) dollars per month, then the
24 court may order the annuitant to pay to a judgment creditor or apply on
25 the judgment, in installments, the portion of the excess benefits that
26 the court determines to be just and proper, after due regard for the
27 reasonable requirements of the judgment debtor and the judgment
28 debtor's dependent family, as well as any payments required to be made
29 by the annuitant to other creditors under prior court orders.

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

35 (3) An annuity contract within the meaning of this section is any
36 obligation to pay certain sums at stated times, during life or lives,
37 or for a specified term or terms, issued for a valuable consideration,
38 regardless of whether or not the sums are payable to one or more

1 persons, jointly or otherwise, but does not include payments under life
2 insurance contracts at stated times during life or lives, or for a
3 specified term or terms.

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

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

9 NOTICE OF GARNISHMENT
10 AND OF YOUR RIGHTS

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

17 YOU HAVE THE FOLLOWING EXEMPTION RIGHTS:

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

28 BANK ACCOUNTS. If the garnishee is a bank or other institution
29 with which you have an account in which you have deposited
30 benefits such as Temporary Assistance for Needy Families,
31 Supplemental Security Income (SSI), Social Security, veterans'
32 benefits, unemployment compensation, or a United States
33 pension, you may claim the account as fully exempt if you have
34 deposited only such benefit funds in the account. It may be
35 partially exempt even though you have deposited money from
36 other sources in the same account. An exemption is also

1 available under RCW 26.16.200, providing that funds in a
2 community bank account that can be identified as the earnings
3 of a stepparent are exempt from a garnishment on the child
4 support obligation of the parent.

5 OTHER EXEMPTIONS. If the garnishee holds other property of
6 yours, some or all of it may be exempt under RCW 6.15.010, a
7 Washington statute that exempts certain property of your choice
8 (including (~~specified cash or~~) money in a bank account up to
9 \$200.00 for debts owed to state agencies, or up to \$500.00 for
10 all other debts) and certain other property such as household
11 furnishings, tools of trade, and a motor vehicle (all limited
12 by differing dollar values).

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

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

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

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

31

32 Name of Court

33

No.....

34 Plaintiff,

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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.
 - Social Security. I receive \$ monthly.
 - Veterans' Benefits. I receive \$ monthly.
 - U.S. Government Pension. I receive \$ monthly.
 - Unemployment Compensation. I receive \$ monthly.

- 1 Child support. I receive \$ monthly.
- 2 Other. Explain
- 3

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

- 6 No money other than from above payments are in
- 7 the account.
- 8 Moneys in addition to the above payments have
- 9 been deposited in the account. Explain
- 10
- 11

12 IF EARNINGS ARE GARNISHED FOR CHILD
 13 SUPPORT:

- 14 I claim maximum exemption.
- 15 I am supporting another child or other children.
- 16 I am supporting a husband, wife, or state registered
- 17 domestic partner.

18 IF PENSION OR RETIREMENT BENEFITS ARE
 19 GARNISHED:

- 20 Name and address of employer who is paying the
- 21 benefits:
- 22

23 OTHER PROPERTY:

- 24 Describe property
- 25
- 26 (If you claim other personal property as exempt, you
- 27 must attach a list of all other personal property that
- 28 you own.)

29

30 Print: Your name If married or in a state

31 registered domestic

32 partnership,

33 name of husband/wife/state

34 registered domestic partner

1
 2 Your signature Signature of husband,
 3 wife, or state registered
 4 domestic partner
 5
 6
 7 Address Address
 8 (if different from yours)
 9
 10 Telephone number Telephone number
 11 (if different from yours)

12 CAUTION: If the plaintiff objects to your claim, you will have to
 13 go to court and give proof of your claim. For example, if you claim
 14 that a bank account is exempt, you may have to show the judge your bank
 15 statements and papers that show the source of the money you deposited
 16 in the bank. Your claim may be granted more quickly if you attach
 17 copies of such proof to your claim.

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

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

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

27 NOTICE OF GARNISHMENT
 28 AND OF YOUR RIGHTS

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

1 YOU HAVE THE FOLLOWING EXEMPTION RIGHTS:

2 WAGES. If the garnishee is your employer who owes wages or
3 other personal earnings to you, your employer is required to
4 pay amounts to you that are exempt under state and federal
5 laws, as explained in the writ of garnishment. You should
6 receive a copy of your employer's answer, which will show how
7 the exempt amount was calculated. If the garnishment is for
8 child support, the exempt amount paid to you will be forty
9 percent of wages due you, but if you are supporting a spouse,
10 state registered domestic partner, or dependent child, you are
11 entitled to claim an additional ten percent as exempt.

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

25 OTHER EXEMPTIONS. If the garnishee holds other property of
26 yours, some or all of it may be exempt under RCW 6.15.010, a
27 Washington statute that exempts certain property of your choice
28 (including ((money)) up to \$500.00 in a bank account ((~~up to~~
29 ~~\$200.00 for debts owed to state agencies, or up to \$500.00 for~~
30 ~~all other debts~~))) and certain other property such as household
31 furnishings, tools of trade, and a motor vehicle (all limited
32 by differing dollar values).

33 HOW TO CLAIM EXEMPTIONS. Fill out the enclosed claim form and
34 mail or deliver it as described in instructions on the claim
35 form. If the plaintiff does not object to your claim, the

1 funds or other property that you have claimed as exempt must be
2 released not later than 10 days after the plaintiff receives
3 your claim form. If the plaintiff objects, the law requires a
4 hearing not later than 14 days after the plaintiff receives
5 your claim form, and notice of the objection and hearing date
6 will be mailed to you at the address that you put on the claim
7 form.

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

11 (2) The claim form 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 [Caption to be filled in by judgment creditor
15 or plaintiff before mailing.]
16
17 Name of Court
18 No.....
19 Plaintiff,
20 vs.
21 EXEMPTION CLAIM
22 Defendant,
23
24 Garnishee Defendant

25 INSTRUCTIONS:

- 26 1. Read this whole form after reading the enclosed
27 notice. Then put an X in the box or boxes that
28 describe your exemption claim or claims and write in
29 the necessary information on the blank lines. If
30 additional space is needed, use the bottom of the last
31 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 NEW SECTION. **Sec. 7.** Section 6 of this act takes effect January
10 1, 2018."

ESHB 1864 - S COMM AMD
By Committee on Judiciary

ADOPTED 04/09/2011

11 On page 1, line 1 of the title, after "Relating to" strike the
12 remainder of the title and insert "debt collection; amending RCW
13 6.15.010, 6.15.020, 48.18.430, 6.27.140, and 6.27.140; reenacting and
14 amending RCW 19.16.250; and providing an effective date."

--- END ---