

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 1822

63rd Legislature
2013 Regular Session

Passed by the House March 9, 2013
Yeas 97 Nays 0

Speaker of the House of Representatives

Passed by the Senate April 17, 2013
Yeas 48 Nays 0

President of the Senate

Approved

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 **SUBSTITUTE HOUSE BILL 1822** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 1822

Passed Legislature - 2013 Regular Session

State of Washington 63rd Legislature 2013 Regular Session

By House Judiciary (originally sponsored by Representative Stanford)

READ FIRST TIME 02/22/13.

1 AN ACT Relating to debt collection practices; amending RCW
2 19.16.100, 19.16.250, and 19.16.260; and providing an effective date.

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

4 **Sec. 1.** RCW 19.16.100 and 2003 c 203 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 or herself in his or her own name;

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

7 (d) Any person or entity that is engaged in the business of
8 purchasing delinquent or charged off claims for collection purposes,
9 whether it collects the claims itself or hires a third party for
10 collection or an attorney for litigation in order to collect such
11 claims.

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

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

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

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

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

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

37 (f) Any person while acting as a debt collector for another person,
38 both of whom are related by common ownership or affiliated by corporate

1 control, if the person acting as a debt collector does so only for
2 persons to whom it is so related or affiliated and if the principal
3 business of the person is not the collection of debts.

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

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

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

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

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

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

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

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

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

26 **Sec. 2.** RCW 19.16.250 and 2011 1st sp.s. c 29 s 2 are each amended
27 to read as follows:

28 No licensee or employee of a licensee shall:

29 (1) Directly or indirectly aid or abet any unlicensed person to
30 engage in business as a collection agency in this state or receive
31 compensation from such unlicensed person: PROVIDED, That nothing in
32 this chapter shall prevent a licensee from accepting, as forwarder,
33 claims for collection from a collection agency or attorney whose place
34 of business is outside the state.

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

1 (3) Publish or post or cause to be published or posted, any list of
2 debtors commonly known as "bad debt lists" or threaten to do so. For
3 purposes of this chapter, a "bad debt list" means any list of natural
4 persons alleged to fail to honor their lawful debts. However, nothing
5 herein shall be construed to prohibit a licensee from communicating to
6 its customers or clients by means of a coded list, the existence of a
7 check dishonored because of insufficient funds, not sufficient funds or
8 closed account by the financial institution servicing the debtor's
9 checking account: PROVIDED, That the debtor's identity is not readily
10 apparent: PROVIDED FURTHER, That the licensee complies with the
11 requirements of subsection (10)(e) of this section.

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

18 (5) Perform any act or acts, either directly or indirectly,
19 constituting the unauthorized practice of law.

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

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

28 (8) Give or send to any debtor or cause to be given or sent to any
29 debtor, any notice, letter, message, or form, other than through proper
30 legal action, process, or proceedings, which represents or implies that
31 a claim exists unless it shall indicate in clear and legible type:

32 (a) The name of the licensee and the city, street, and number at
33 which he or she is licensed to do business;

34 (b) The name of the original creditor to whom the debtor owed the
35 claim if such name is known to the licensee or employee: PROVIDED,
36 That upon written request of the debtor, the licensee shall provide
37 this name to the debtor or cease efforts to collect on the debt until
38 this information is provided;

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

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

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

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

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

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

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

25 (d) If the notice, letter, message, or form concerns a judgment
26 obtained against the debtor, no itemization of the amounts contained in
27 the judgment is required, except postjudgment interest, if claimed, and
28 the current account balance;

29 (e) If the notice, letter, message, or form is the first notice to
30 the debtor, an itemization of the claim asserted must be made including
31 the following information:

32 (i) The original account number or redacted original account number
33 assigned to the debt, 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; and

37 (ii) The date of the last payment to the creditor on the subject
38 debt by the debtor, if known to the licensee or employee: PROVIDED,

1 That upon written request of the debtor, the licensee must make a
2 reasonable effort to obtain this information or cease efforts to
3 collect on the debt until this information is provided.

4 (9) Communicate in writing with a debtor concerning a claim through
5 a proper legal action, process, or proceeding, where such communication
6 is the first written communication with the debtor, without providing
7 the information set forth in subsection (8)(c) of this section in the
8 written communication.

9 (10) 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. If the licensee or
15 employee of a licensee reports a claim to a credit reporting bureau,
16 the licensee shall, upon receipt of written notice from the debtor that
17 any part of the claim is disputed, notify the credit reporting bureau
18 of the dispute by written or electronic means and create a record of
19 the fact of the notification and when the notification was provided;

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

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

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

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

36 (d) A licensee may for the purpose of locating the debtor or
37 locating assets of the debtor communicate the existence of a claim to

1 any person who might reasonably be expected to have knowledge of the
2 whereabouts of a debtor or the location of assets of the debtor if the
3 claim is reduced to judgment, or if not reduced to judgment, when:

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

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

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

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

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

19 (11) Threaten the debtor with impairment of his or her credit
20 rating if a claim is not paid: PROVIDED, That advising a debtor that
21 the licensee has reported or intends to report a claim to a credit
22 reporting agency is not considered a threat if the licensee actually
23 has reported or intends to report the claim to a credit reporting
24 agency.

25 (12) Communicate with the debtor after notification in writing from
26 an attorney representing such debtor that all further communications
27 relative to a claim should be addressed to the attorney: PROVIDED,
28 That if a licensee requests in writing information from an attorney
29 regarding such claim and the attorney does not respond within a
30 reasonable time, the licensee may communicate directly with the debtor
31 until he or she or it again receives notification in writing that an
32 attorney is representing the debtor.

33 (13) Communicate with a debtor or anyone else in such a manner as
34 to harass, intimidate, threaten, or embarrass a debtor, including but
35 not limited to communication at an unreasonable hour, with unreasonable
36 frequency, by threats of force or violence, by threats of criminal
37 prosecution, and by use of offensive language. A communication shall
38 be presumed to have been made for the purposes of harassment if:

1 (a) It is made with a debtor or spouse in any form, manner, or
2 place, more than three times in a single week, unless the licensee is
3 responding to a communication from the debtor or spouse;

4 (b) It is made with a debtor at his or her place of employment more
5 than one time in a single week, unless the licensee is responding to a
6 communication from the debtor;

7 (c) It is made with the debtor or spouse at his or her place of
8 residence between the hours of 9:00 p.m. and 7:30 a.m. A call to a
9 telephone is presumed to be received in the local time zone to which
10 the area code of the number called is assigned for landline numbers,
11 unless the licensee reasonably believes the telephone is located in a
12 different time zone. If the area code is not assigned to landlines in
13 any specific geographic area, such as with toll-free telephone numbers,
14 a call to a telephone is presumed to be received in the local time zone
15 of the debtor's last known place of residence, unless the licensee
16 reasonably believes the telephone is located in a different time zone.

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

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

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

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

33 (a) This subsection does not prohibit a licensee from attempting to
34 communicate by way of a cellular telephone or other wireless device:
35 PROVIDED, That a licensee cannot cause charges to be incurred to the
36 recipient of the attempted communication more than three times in any
37 calendar week when the licensee knows or reasonably should know that

1 the number belongs to a cellular telephone or other wireless device,
2 unless the licensee is responding to a communication from the debtor or
3 the person to whom the call is made.

4 (b) The licensee is not in violation of (a) of this subsection if
5 the licensee at least monthly updates its records with information
6 provided by a commercial provider of cellular telephone lists that the
7 licensee in good faith believes provides reasonably current and
8 comprehensive data identifying cellular telephone numbers, calls a
9 number not appearing in the most recent list provided by the commercial
10 provider, and does not otherwise know or reasonably should know that
11 the number belongs to a cellular telephone.

12 (c) This subsection may not be construed to increase the number of
13 communications permitted pursuant to subsection (13)(a) of this
14 section.

15 (18) Call, or send a text message or other electronic communication
16 to, a cellular telephone or other wireless device more than twice in
17 any day when the licensee knows or reasonably should know that the
18 number belongs to a cellular telephone or other wireless device, unless
19 the licensee is responding to a communication from the debtor or the
20 person to whom the call, text message, or other electronic
21 communication is made. The licensee is not in violation of this
22 subsection if the licensee at least monthly updates its records with
23 information provided by a commercial provider of cellular telephone
24 lists that the licensee in good faith believes provides reasonably
25 current and comprehensive data identifying cellular telephone numbers,
26 calls a number not appearing in the most recent list provided by the
27 commercial provider, and does not otherwise know or reasonably should
28 know that the number belongs to a cellular telephone. Nothing in this
29 subsection may be construed to increase the number of communications
30 permitted pursuant to subsection (13)(a) of this section.

31 (19) Intentionally block its telephone number from displaying on a
32 debtor's telephone.

33 (20) 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 (21) 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 (22) 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 (21) of this section,
12 and, in the case of suit, attorney's fees and taxable court costs.

13 (23) Bring an action or initiate an arbitration proceeding on a
14 claim when the licensee knows, or reasonably should know, that such
15 suit or arbitration is barred by the applicable statute of limitations.

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

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

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

1 information to the debtor, or to request additional information from
2 the debtor needed by the licensee to accurately record the debtor's
3 information in the licensee's records.

4 (25) Submit an affidavit or other request pursuant to chapter 6.32
5 RCW asking a superior or district court to transfer a bond posted by a
6 debtor subject to a money judgment to the licensee, when the debtor has
7 appeared as required.

8 **Sec. 3.** RCW 19.16.260 and 2011 c 336 s 521 are each amended to
9 read as follows:

10 No collection agency or out-of-state collection agency may bring or
11 maintain an action in any court of this state involving the collection
12 of its own claim or a claim of any third party without alleging and
13 proving that he, she, or it is duly licensed under this chapter and has
14 satisfied the bonding requirements hereof, if applicable: PROVIDED,
15 That in any case where judgment is to be entered by default, it shall
16 not be necessary for the collection agency or out-of-state collection
17 agency to prove such matters.

18 A copy of the current collection agency license or out-of-state
19 collection agency license, certified by the director to be a true and
20 correct copy of the original, shall be prima facie evidence of the
21 licensing and bonding of such collection agency or out-of-state
22 collection agency as required by this chapter.

23 NEW SECTION. **Sec. 4.** Sections 1 and 3 of this act take effect
24 October 1, 2013.

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