

SSB 5222 - S AMD 624  
By Senator Nelson

PULLED 02/16/2016

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

3 "Sec. 1. RCW 19.16.100 and 2015 c 201 s 3 are each amended to  
4 read as follows:

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

8 (1) "Account level documentation" means all records generated by  
9 the original creditor or received by the original creditor from the  
10 debtor related to a claim in collection including, but not limited  
11 to: The original contract and terms and conditions of the account,  
12 periodic statements of accounts due, and records of payments,  
13 letters, and other account notices.

14 (2) "Board" means the Washington state collection agency board.

15 ((+2)) (3) "Claim" means any obligation for the payment of money  
16 or thing of value arising out of any agreement or contract, express  
17 or implied.

18 ((+3)) (4) "Client" or "customer" means any person authorizing  
19 or employing a collection agency to collect a claim.

20 ((+4)) (5) "Collection agency" means and includes:

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

24 (b) Any person who directly or indirectly furnishes or attempts  
25 to furnish, sells, or offers to sell forms represented to be a  
26 collection system or scheme intended or calculated to be used to  
27 collect claims even though the forms direct the debtor to make  
28 payment to the creditor and even though the forms may be or are  
29 actually used by the creditor himself or herself in his or her own  
30 name;

31 (c) Any person who in attempting to collect or in collecting his  
32 or her own claim uses a fictitious name or any name other than his or

1 her own which would indicate to the debtor that a third person is  
2 collecting or attempting to collect such claim;

3 (d) Any person or entity that is engaged in the business of  
4 purchasing delinquent or charged off claims for collection purposes,  
5 whether it collects the claims itself or hires a third party for  
6 collection or an attorney for litigation in order to collect such  
7 claims;

8 (e) Any person or entity attempting to enforce a lien under  
9 chapter 60.44 RCW, other than the person or entity originally  
10 entitled to the lien.

11 (~~(+5)~~) (6) "Collection agency" does not mean and does not  
12 include:

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

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

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

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

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

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

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

4 ~~((+6))~~ (7) "Commercial claim" means any obligation for payment  
5 of money or thing of value arising out of any agreement or contract,  
6 express or implied, where the transaction which is the subject of the  
7 agreement or contract is not primarily for personal, family, or  
8 household purposes.

9 ~~((+7))~~ (8) "Debtor" means any person owing or alleged to owe a  
10 claim.

11 ~~((+8))~~ (9) "Director" means the director of licensing.

12 ~~((+9))~~ (10) "Licensee" means any person licensed under this  
13 chapter.

14 ~~((+10))~~ (11) "Out-of-state collection agency" means a person  
15 whose activities within this state are limited to collecting debts  
16 from debtors located in this state by means of interstate  
17 communications, including telephone, mail, or facsimile transmission,  
18 from the person's location in another state on behalf of clients  
19 located outside of this state, but does not include any person who is  
20 excluded from the definition of the term "debt collector" under the  
21 federal fair debt collection practices act (15 U.S.C. Sec. 1692a(6)).

22 ~~((+11))~~ (12) "Person" includes individual, firm, partnership,  
23 trust, joint venture, association, or corporation.

24 ~~((+12))~~ (13) "Statement of account" means a report setting forth  
25 only amounts billed, invoices, credits allowed, or aged balance due.

26 **Sec. 2.** RCW 19.16.250 and 2013 c 148 s 2 are each amended to  
27 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  
34 place 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  
37 postal department.

38 (3) Publish or post or cause to be published or posted, any list  
39 of debtors commonly known as "bad debt lists" or threaten to do so.

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

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

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

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

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

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

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

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

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

1 amount than indicated in his or her or its first notice to the  
2 debtor, an 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  
6 payment charges, if any, added to the original obligation by the  
7 original creditor, customer or assignor before it was received by the  
8 licensee for collection, if such information is known by the licensee  
9 or 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  
13 or customer or assignor after the obligation was received by the  
14 licensee 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 her or its behalf or on the behalf of a customer or  
19 assignor; and

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

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

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

30 (i) The original account number or redacted original account  
31 number assigned to the debt, if known to the licensee or employee:  
32 PROVIDED, That upon written request of the debtor, the licensee must  
33 make a reasonable effort to obtain this information or cease efforts  
34 to collect on the debt until this information is provided; (~~and~~)

35 (ii) The date of the last payment to the creditor on the subject  
36 debt by the debtor, if known to the licensee or employee: PROVIDED,  
37 That upon written request of the debtor, the licensee must make a  
38 reasonable effort to obtain this information or cease efforts to  
39 collect on the debt until this information is provided;

1        (iii) Certification that the itemization of the claim was made  
2 based on a personal review of account level documentation provided by  
3 the original creditor; and

4        (iv) A copy of the account level documentation reviewed by the  
5 licensee pursuant to (e)(iii) of this subsection (8).

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

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

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

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

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

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

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

1 (d) A licensee may for the purpose of locating the debtor or  
2 locating assets of the debtor communicate the existence of a claim to  
3 any person who might reasonably be expected to have knowledge of the  
4 whereabouts of a debtor or the location of assets of the debtor if  
5 the claim is reduced to judgment, or if not reduced to judgment,  
6 when:

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

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

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

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

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

25 (11) Threaten the debtor with impairment of his or her credit  
26 rating if a claim is not paid: PROVIDED, That advising a debtor that  
27 the licensee has reported or intends to report a claim to a credit  
28 reporting agency is not considered a threat if the licensee actually  
29 has reported or intends to report the claim to a credit reporting  
30 agency.

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

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

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

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

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

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

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

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

37       (17) Send any telegram or make any telephone calls to a debtor or  
38 concerning a debt or for the purpose of demanding payment of a claim  
39 or seeking information about a debtor, for which the charges are

1 payable by the addressee or by the person to whom the call is made:  
2 PROVIDED, That:

3 (a) This subsection does not prohibit a licensee from attempting  
4 to communicate by way of a cellular telephone or other wireless  
5 device: PROVIDED, That a licensee cannot cause charges to be incurred  
6 to the recipient of the attempted communication more than three times  
7 in any calendar week when the licensee knows or reasonably should  
8 know that the number belongs to a cellular telephone or other  
9 wireless device, unless the licensee is responding to a communication  
10 from the debtor or the person to whom the call is made.

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

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

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

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

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

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

14 (22) Procure from a debtor or collect or attempt to collect on  
15 any written note, contract, stipulation, promise or acknowledgment  
16 under which a debtor may be required to pay any sum other than  
17 principal, allowable interest, except as noted in subsection (21) of  
18 this section, and, in the case of suit, attorney's fees and taxable  
19 court costs.

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

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

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

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

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

9 (25) Submit an affidavit or other request pursuant to chapter  
10 6.32 RCW asking a superior or district court to transfer a bond  
11 posted by a debtor subject to a money judgment to the licensee, when  
12 the debtor has appeared as required.

13 (26) Collect, or attempt to collect, on any account purchased for  
14 collection by a licensee unless the licensee has completed a  
15 meaningful investigation into the chain of ownership of the account  
16 and has in its possession a copy of a written assignment or bill of  
17 sale which identifies the debtor by name and account number for each  
18 sale or assignment of the account beginning with the original  
19 creditor. A copy of each assignment must be included with any initial  
20 written communication to a debtor.

21 (27) File with any court an affidavit or declaration in support  
22 of a judgment on a claim which fails to inform the court if the  
23 original creditor, or any prior owner of the account, disclaimed the  
24 accuracy or integrity of the account balance, account information,  
25 account records, or other documentation of indebtedness transferred  
26 at the time of sale.

27 **Sec. 3.** RCW 19.16.270 and 2011 c 336 s 522 are each amended to  
28 read as follows:

29 In any action brought by licensee to collect the claim of his,  
30 her, or its customer, the assignment of the claim to licensee by his,  
31 her, or its customer shall be conclusively presumed valid, if the  
32 assignment is filed in court with the complaint, unless objection is  
33 made thereto by the debtor in a written answer or in writing five  
34 days or more prior to trial. The provisions of this section do not  
35 apply to delinquent or charged off claims purchased for collection  
36 purposes, whether the purchaser collects the claims itself, or hires  
37 a third party for collection or an attorney for litigation in order  
38 to collect such claims."

**PULLED 02/16/2016**

1        On page 1, line 1 of the title, after "Relating to" strike the  
2 remainder of the title and insert "collection agency practices; and  
3 amending RCW 19.16.100, 19.16.250, and 19.16.270."

EFFECT: (1) Revises the collection bargaining act.

(2) Addresses prohibited practices of collection agencies with regard to certification that an itemization of a claim was made based on a personal review of account level documentation provided by the original creditor.

--- END ---