
SUBSTITUTE SENATE BILL 5043

State of Washington

65th Legislature

2017 Regular Session

By Senate Financial Institutions & Insurance (originally sponsored by Senators Angel, Mullet, and Hobbs)

READ FIRST TIME 02/16/17.

1 AN ACT Relating to payment of debts; amending RCW 3.50.100,
2 3.62.040, 7.21.040, 9.94A.6333, 9.94A.640, 10.82.030, 10.82.040,
3 10.82.090, 35.20.220, 19.16.100, and 19.16.250; reenacting and
4 amending RCW 3.62.020; and adding new sections to chapter 9.94A RCW.

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

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 9.94A
7 RCW to read as follows:

8 (1) No interest shall accrue on nonrestitution legal financial
9 obligations until the date of release from full or partial custody as
10 indicated on the judgment and sentence.

11 (2) If a violation of a condition or requirement of sentence is
12 only for failure to pay legal financial obligations with an unpaid
13 principal of twenty-five thousand dollars or less, the court shall
14 not impose any term of partial or total confinement.

15 NEW SECTION. **Sec. 2.** A new section is added to chapter 9.94A
16 RCW to read as follows:

17 Upon the release of an offender from partial or total
18 confinement, the department must inform the offender, in writing,
19 regarding the amount of legal financial obligation owed, the interest
20 rate, when and how interest will accrue, and how to avoid the payment

1 of interest on the nonrestitution portion of the legal financial
2 obligation.

3 **Sec. 3.** RCW 3.50.100 and 2012 c 136 s 3 are each amended to read
4 as follows:

5 (1) Costs in civil and criminal actions may be imposed as
6 provided in district court. All fees, costs, fines, forfeitures and
7 other money imposed by any municipal court for the violation of any
8 municipal or town ordinances shall be collected by the court clerk
9 and, together with any other noninterest revenues received by the
10 clerk, shall be deposited with the city or town treasurer as a part
11 of the general fund of the city or town, or deposited in such other
12 fund of the city or town, or deposited in such other funds as may be
13 designated by the laws of the state of Washington.

14 (2) Except as provided in RCW 9A.88.120 and 10.99.080, the city
15 treasurer shall remit monthly thirty-two percent of the noninterest
16 money received under this section, other than for parking
17 infractions, and certain costs to the state treasurer. "Certain
18 costs" as used in this subsection, means those costs awarded to
19 prevailing parties in civil actions under RCW 4.84.010 or 36.18.040,
20 or those costs awarded against convicted defendants in criminal
21 actions under RCW 10.01.160, 10.46.190, or 36.18.040, or other
22 similar statutes if such costs are specifically designated as costs
23 by the court and are awarded for the specific reimbursement of costs
24 incurred by the state, county, city, or town in the prosecution of
25 the case, including the fees of defense counsel. Money remitted under
26 this subsection to the state treasurer shall be deposited in the
27 state general fund.

28 (3) The balance of the noninterest money received under this
29 section shall be retained by the city and deposited as provided by
30 law.

31 (4) Except as provided in section 1 of this act, penalties,
32 fines, bail forfeitures, fees, and costs may accrue interest at the
33 rate of twelve percent per annum, upon assignment to a collection
34 agency. Interest may accrue only while the case is in collection
35 status.

36 (5) Interest retained by the court on penalties, fines, bail
37 forfeitures, fees, and costs shall be split twenty-five percent to
38 the state treasurer for deposit in the state general fund, twenty-
39 five percent to the state treasurer for deposit in the judicial

1 information system account as provided in RCW 2.68.020, twenty-five
2 percent to the city general fund, and twenty-five percent to the city
3 general fund to fund local courts.

4 **Sec. 4.** RCW 3.62.020 and 2012 c 262 s 1, 2012 c 136 s 4, and
5 2012 c 134 s 6 are each reenacted and amended to read as follows:

6 (1) Except as provided in subsection (4) of this section, all
7 costs, fees, fines, forfeitures and penalties assessed and collected
8 in whole or in part by district courts, except costs, fines,
9 forfeitures and penalties assessed and collected, in whole or in
10 part, because of the violation of city ordinances, shall be remitted
11 by the clerk of the district court to the county treasurer at least
12 monthly, together with a financial statement as required by the state
13 auditor, noting the information necessary for crediting of such funds
14 as required by law.

15 (2) Except as provided in RCW 9A.88.120, 10.99.080, 7.84.100(4),
16 and this section, the county treasurer shall remit thirty-two percent
17 of the noninterest money received under subsection (1) of this
18 section except certain costs to the state treasurer. "Certain costs"
19 as used in this subsection, means those costs awarded to prevailing
20 parties in civil actions under RCW 4.84.010 or 36.18.040, or those
21 costs awarded against convicted defendants in criminal actions under
22 RCW 10.01.160, 10.46.190, or 36.18.040, or other similar statutes if
23 such costs are specifically designated as costs by the court and are
24 awarded for the specific reimbursement of costs incurred by the state
25 or county in the prosecution of the case, including the fees of
26 defense counsel. With the exception of funds to be transferred to the
27 judicial stabilization trust account under RCW 3.62.060(2), money
28 remitted under this subsection to the state treasurer shall be
29 deposited in the state general fund.

30 (3) The balance of the noninterest money received by the county
31 treasurer under subsection (1) of this section shall be deposited in
32 the county current expense fund. Funds deposited under this
33 subsection that are attributable to the county's portion of a
34 surcharge imposed under RCW 3.62.060(2) must be used to support local
35 trial court and court-related functions.

36 (4) Except as provided in RCW 7.84.100(4), all money collected
37 for county parking infractions shall be remitted by the clerk of the
38 district court at least monthly, with the information required under

1 subsection (1) of this section, to the county treasurer for deposit
2 in the county current expense fund.

3 (5) Except as provided in section 1 of this act, penalties,
4 fines, bail forfeitures, fees, and costs may accrue interest at the
5 rate of twelve percent per annum, upon assignment to a collection
6 agency. Interest may accrue only while the case is in collection
7 status.

8 (6) Interest retained by the court on penalties, fines, bail
9 forfeitures, fees, and costs shall be split twenty-five percent to
10 the state treasurer for deposit in the state general fund, twenty-
11 five percent to the state treasurer for deposit in the judicial
12 information system account as provided in RCW 2.68.020, twenty-five
13 percent to the county current expense fund, and twenty-five percent
14 to the county current expense fund to fund local courts.

15 **Sec. 5.** RCW 3.62.040 and 2012 c 136 s 5 are each amended to read
16 as follows:

17 (1) Except as provided in subsection (4) of this section, all
18 costs, fines, forfeitures and penalties assessed and collected, in
19 whole or in part, by district courts because of violations of city
20 ordinances shall be remitted by the clerk of the district court at
21 least monthly directly to the treasurer of the city wherein the
22 violation occurred.

23 (2) Except as provided in RCW 9A.88.120 and 10.99.080, the city
24 treasurer shall remit monthly thirty-two percent of the noninterest
25 money received under this section, other than for parking infractions
26 and certain costs, to the state treasurer. "Certain costs" as used in
27 this subsection, means those costs awarded to prevailing parties in
28 civil actions under RCW 4.84.010 or 36.18.040, or those costs awarded
29 against convicted defendants in criminal actions under RCW 10.01.160,
30 10.46.190, or 36.18.040, or other similar statutes if such costs are
31 specifically designated as costs by the court and are awarded for the
32 specific reimbursement of costs incurred by the state, county, city,
33 or town in the prosecution of the case, including the fees of defense
34 counsel. Money remitted under this subsection to the state treasurer
35 shall be deposited in the state general fund.

36 (3) The balance of the noninterest money received under this
37 section shall be retained by the city and deposited as provided by
38 law.

1 (4) All money collected for city parking infractions shall be
2 remitted by the clerk of the district court at least monthly to the
3 city treasurer for deposit in the city's general fund.

4 (5) Except as provided in section 1 of this act, penalties,
5 fines, bail forfeitures, fees, and costs may accrue interest at the
6 rate of twelve percent per annum, upon assignment to a collection
7 agency. Interest may accrue only while the case is in collection
8 status.

9 (6) Interest retained by the court on penalties, fines, bail
10 forfeitures, fees, and costs shall be split twenty-five percent to
11 the state treasurer for deposit in the state general fund, twenty-
12 five percent to the state treasurer for deposit in the judicial
13 information system account as provided in RCW 2.68.020, twenty-five
14 percent to the city general fund, and twenty-five percent to the city
15 general fund to fund local courts.

16 **Sec. 6.** RCW 7.21.040 and 2011 c 96 s 3 are each amended to read
17 as follows:

18 (1) Except as otherwise provided in RCW 7.21.050 or section 1 of
19 this act, a punitive sanction for contempt of court may be imposed
20 only pursuant to this section.

21 (2)(a) An action to impose a punitive sanction for contempt of
22 court shall be commenced by a complaint or information filed by the
23 prosecuting attorney or city attorney charging a person with contempt
24 of court and reciting the punitive sanction sought to be imposed.

25 (b) If there is probable cause to believe that a contempt has
26 been committed, the prosecuting attorney or city attorney may file
27 the information or complaint on his or her own initiative or at the
28 request of a person aggrieved by the contempt.

29 (c) A request that the prosecuting attorney or the city attorney
30 commence an action under this section may be made by a judge
31 presiding in an action or proceeding to which a contempt relates. If
32 required for the administration of justice, the judge making the
33 request may appoint a special counsel to prosecute an action to
34 impose a punitive sanction for contempt of court.

35 A judge making a request pursuant to this subsection shall be
36 disqualified from presiding at the trial.

37 (d) If the alleged contempt involves disrespect to or criticism
38 of a judge, that judge is disqualified from presiding at the trial of

1 the contempt unless the person charged consents to the judge
2 presiding at the trial.

3 (3) The court may hold a hearing on a motion for a remedial
4 sanction jointly with a trial on an information or complaint seeking
5 a punitive sanction.

6 (4) A punitive sanction may be imposed for past conduct that was
7 a contempt of court even though similar present conduct is a
8 continuing contempt of court.

9 (5) If the defendant is found guilty of contempt of court under
10 this section, the court may impose for each separate contempt of
11 court a fine of not more than five thousand dollars or imprisonment
12 for up to three hundred sixty-four days, or both.

13 **Sec. 7.** RCW 9.94A.6333 and 2008 c 231 s 19 are each amended to
14 read as follows:

15 (1) If an offender violates any condition or requirement of a
16 sentence, and the offender is not being supervised by the department,
17 the court may modify its order of judgment and sentence and impose
18 further punishment in accordance with this section.

19 (2) If an offender fails to comply with any of the conditions or
20 requirements of a sentence the following provisions apply:

21 (a) The court, upon the motion of the state, or upon its own
22 motion, shall require the offender to show cause why the offender
23 should not be punished for the noncompliance. The court may issue a
24 summons or a warrant of arrest for the offender's appearance;

25 (b) The state has the burden of showing noncompliance by a
26 preponderance of the evidence;

27 (c) If the court finds that a violation has been proved, it may
28 impose the sanctions specified in RCW 9.94A.633(1). However, if the
29 violation is for failure to pay legal financial obligations with an
30 unpaid principal of twenty-five thousand dollars or less, the court
31 shall not impose any term of partial or total confinement.

32 Alternatively, the court may:

33 (i) Convert a term of partial confinement to total confinement;
34 (ii) Convert community restitution obligation to total or partial
35 confinement; or

36 (iii) Convert monetary obligations, except restitution and the
37 crime victim penalty assessment, to community restitution hours at
38 the rate of the state minimum wage as established in RCW 49.46.020
39 for each hour of community restitution;

1 (d) If the court finds that the violation was not willful, the
2 court may modify its previous order regarding payment of legal
3 financial obligations and regarding community restitution
4 obligations; and

5 (e) If the violation involves a failure to undergo or comply with
6 a mental health status evaluation and/or outpatient mental health
7 treatment, the court shall seek a recommendation from the treatment
8 provider or proposed treatment provider. Enforcement of orders
9 concerning outpatient mental health treatment must reflect the
10 availability of treatment and must pursue the least restrictive means
11 of promoting participation in treatment. If the offender's failure to
12 receive care essential for health and safety presents a risk of
13 serious physical harm or probable harmful consequences, the civil
14 detention and commitment procedures of chapter 71.05 RCW shall be
15 considered in preference to incarceration in a local or state
16 correctional facility.

17 (3) Any time served in confinement awaiting a hearing on
18 noncompliance shall be credited against any confinement ordered by
19 the court.

20 (4) Nothing in this section prohibits the filing of escape
21 charges if appropriate.

22 **Sec. 8.** RCW 9.94A.640 and 2012 c 183 s 3 are each amended to
23 read as follows:

24 (1) Every offender who has been discharged under RCW 9.94A.637
25 may apply to the sentencing court for a vacation of the offender's
26 record of conviction. If the court finds the offender meets the tests
27 prescribed in subsection (2) of this section, the court may clear the
28 record of conviction by: (a) Permitting the offender to withdraw the
29 offender's plea of guilty and to enter a plea of not guilty; or (b)
30 if the offender has been convicted after a plea of not guilty, by the
31 court setting aside the verdict of guilty; and (c) by the court
32 dismissing the information or indictment against the offender.

33 (2)~~(a)~~ An offender may not have the record of conviction cleared
34 if: ~~((+a))~~ (i) There are any criminal charges against the offender
35 pending in any court of this state or another state, or in any
36 federal court; ~~((+b))~~ (ii) the offense was a violent offense as
37 defined in RCW 9.94A.030; ~~((+c))~~ (iii) the offense was a crime
38 against persons as defined in RCW 43.43.830; ~~((+d))~~ (iv) the
39 offender has been convicted of a new crime in this state, another

1 state, or federal court since the date of the offender's discharge
2 under RCW 9.94A.637; ~~((e))~~ (v) the offense is a class B felony and
3 less than ten years have passed since the date the applicant was
4 discharged under RCW 9.94A.637; ~~((f))~~ (vi) the offense was a class
5 C felony, other than a class C felony described in RCW 46.61.502(6)
6 or 46.61.504(6), and less than five years have passed since the date
7 the applicant was discharged under RCW 9.94A.637; or ~~((g))~~ (vii)
8 the offense was a class C felony described in RCW 46.61.502(6) or
9 46.61.504(6).

10 (b) Subject to the provisions of (a) of this subsection, the
11 court shall clear the offender's record of conviction if the offender
12 has fulfilled all of the conditions of sentence except nonrestitution
13 legal financial obligations.

14 (3) Once the court vacates a record of conviction under
15 subsection (1) of this section, the fact that the offender has been
16 convicted of the offense shall not be included in the offender's
17 criminal history for purposes of determining a sentence in any
18 subsequent conviction, and the offender shall be released from all
19 penalties and disabilities resulting from the offense. For all
20 purposes, including responding to questions on employment
21 applications, an offender whose conviction has been vacated may state
22 that the offender has never been convicted of that crime. Nothing in
23 this section affects or prevents the use of an offender's prior
24 conviction in a later criminal prosecution.

25 **Sec. 9.** RCW 10.82.030 and 2010 c 8 s 1064 are each amended to
26 read as follows:

27 Except as provided in section 1 of this act and RCW 9.94A.6333,
28 if any person ordered into custody until the fine and costs adjudged
29 against him or her be paid shall not, within five days, pay, or cause
30 the payment of the same to be made, the clerk of the court shall
31 issue a warrant to the sheriff commanding him or her to imprison such
32 defendant in the county jail until the amount of such fine and costs
33 owing are paid. Execution may at any time issue against the property
34 of the defendant for that portion of such fine and costs not reduced
35 by the application of this section. The amount of such fine and costs
36 owing shall be the whole of such fine and costs reduced by the amount
37 of any portion thereof paid, and an amount established by the county
38 legislative authority for every day the defendant performs labor as
39 provided in RCW 10.82.040, and a lesser amount established by the

1 county legislative authority for every day the defendant does not
2 perform such labor while imprisoned.

3 **Sec. 10.** RCW 10.82.040 and 2010 c 8 s 1065 are each amended to
4 read as follows:

5 Except as provided in section 1 of this act and RCW 9.94A.6333,
6 when a defendant is committed to jail, on failure to pay any fines
7 and costs, he or she shall, under the supervision of the county
8 sheriff and subject to the terms of any ordinances adopted by the
9 county commissioners, be permitted to perform labor to reduce the
10 amount owing of the fine and costs.

11 **Sec. 11.** RCW 10.82.090 and 2015 c 265 s 23 are each amended to
12 read as follows:

13 (1) Except as provided in subsection (2) of this section,
14 restitution financial obligations imposed in a judgment shall bear
15 interest from the date of the judgment until payment, at the rate
16 applicable to civil judgments. Except as provided in subsection (2)
17 of this section, nonrestitution financial obligations imposed in a
18 judgment shall bear interest from the date of release from full or
19 partial custody as indicated on the judgment and sentence until
20 payment, at the rate applicable to civil judgments. All
21 nonrestitution interest retained by the court shall be split twenty-
22 five percent to the state treasurer for deposit in the state general
23 fund, twenty-five percent to the state treasurer for deposit in the
24 judicial information system account as provided in RCW 2.68.020,
25 twenty-five percent to the county current expense fund, and twenty-
26 five percent to the county current expense fund to fund local courts.

27 (2) The court may, (~~on motion by the offender,~~) following the
28 offender's release from total confinement, reduce or waive the
29 interest on legal financial obligations levied as a result of a
30 criminal conviction as follows:

31 (a) The court shall waive all interest on the portions of the
32 legal financial obligations that are not restitution (~~that accrued~~
33 ~~during the term of total confinement~~) for the conviction giving rise
34 to the financial obligations, provided the offender (~~shows that the~~
35 ~~interest creates a hardship for the offender or his or her immediate~~
36 ~~family~~) has paid the principal amount in full within five years
37 after the term of partial or total confinement;

1 (b) The court (~~may~~), on motion by the offender, shall reduce
2 interest at any time on the (~~restitution~~) nonrestitution portion of
3 the legal financial obligations (~~only~~) if the principal has been
4 paid in full;

5 (c) The court may otherwise reduce or waive the interest on the
6 portions of the legal financial obligations that are not restitution
7 or principal if the offender shows that he or she has personally made
8 a good faith effort to pay and that the interest accrual is causing a
9 significant hardship. For purposes of this section, "good faith
10 effort" means that the offender has either (i) paid the principal
11 amount in full; or (ii) made at least fifteen monthly payments within
12 an eighteen-month period, excluding any payments mandatorily deducted
13 by the department of corrections;

14 (~~For purposes of (a) through (c) of this subsection, the~~
15 ~~court may reduce or waive interest on legal financial obligations~~
16 ~~only as an incentive for the offender to meet his or her legal~~
17 ~~financial obligations.)) The court may grant the motion, establish a
18 payment schedule, and retain jurisdiction over the offender for
19 purposes of reviewing and revising the reduction or waiver of
20 interest.~~

21 (3) This section only applies to adult offenders.

22 **Sec. 12.** RCW 35.20.220 and 2012 c 136 s 7 are each amended to
23 read as follows:

24 (1) The chief clerk, under the supervision and direction of the
25 court administrator of the municipal court, shall have the custody
26 and care of the books, papers and records of the court. The chief
27 clerk or a deputy shall be present during the session of the court
28 and has the power to swear all witnesses and jurors, administer oaths
29 and affidavits, and take acknowledgments. The chief clerk shall keep
30 the records of the court and shall issue all process under his or her
31 hand and the seal of the court. The chief clerk shall do and perform
32 all things and have the same powers pertaining to the office as the
33 clerks of the superior courts have in their office. He or she shall
34 receive all fines, penalties, and fees of every kind and keep a full,
35 accurate, and detailed account of the same. The chief clerk shall on
36 each day pay into the city treasury all money received for the city
37 during the day previous, with a detailed account of the same, and
38 taking the treasurer's receipt therefor.

1 (2) Except as provided in RCW 9A.88.120 and 10.99.080, the city
2 treasurer shall remit monthly thirty-two percent of the noninterest
3 money received under this section, other than for parking infractions
4 and certain costs to the state treasurer. "Certain costs" as used in
5 this subsection, means those costs awarded to prevailing parties in
6 civil actions under RCW 4.84.010 or 36.18.040, or those costs awarded
7 against convicted defendants in criminal actions under RCW 10.01.160,
8 10.46.190, or 36.18.040, or other similar statutes if such costs are
9 specifically designated as costs by the court and are awarded for the
10 specific reimbursement of costs incurred by the state, county, city,
11 or town in the prosecution of the case, including the fees of defense
12 counsel. Money remitted under this subsection to the state treasurer
13 shall be deposited in the state general fund.

14 (3) The balance of the noninterest money received under this
15 section shall be retained by the city and deposited as provided by
16 law.

17 (4) Except as provided in section 1 of this act, penalties,
18 fines, bail forfeitures, fees, and costs may accrue interest at the
19 rate of twelve percent per annum, upon assignment to a collection
20 agency. Interest may accrue only while the case is in collection
21 status.

22 (5) Interest retained by the court on penalties, fines, bail
23 forfeitures, fees, and costs shall be split twenty-five percent to
24 the state treasurer for deposit in the state general fund, twenty-
25 five percent to the state treasurer for deposit in the judicial
26 information system account as provided in RCW 2.68.020, twenty-five
27 percent to the city general fund, and twenty-five percent to the city
28 general fund to fund local courts.

29 **Sec. 13.** RCW 19.16.100 and 2015 c 201 s 3 are each amended to
30 read as follows:

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

34 (1) "Board" means the Washington state collection agency board.

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

38 (3) "Client" or "customer" means any person authorizing or
39 employing a collection agency to collect a claim.

1 (4) "Collection agency" means and includes:

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

5 (b) Any person who directly or indirectly furnishes or attempts
6 to furnish, sells, or offers to sell forms represented to be a
7 collection system or scheme intended or calculated to be used to
8 collect claims even though the forms direct the debtor to make
9 payment to the creditor and even though the forms may be or are
10 actually used by the creditor himself or herself in his or her own
11 name;

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

16 (d) Any person or entity that is engaged in the business of
17 purchasing delinquent or charged off claims for collection purposes,
18 whether it collects the claims itself or hires a third party for
19 collection or an attorney for litigation in order to collect such
20 claims;

21 (e) Any person or entity attempting to enforce a lien under
22 chapter 60.44 RCW, other than the person or entity originally
23 entitled to the lien.

24 (5) "Collection agency" does not mean and does not include:

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

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

33 (c) Any person whose collection activities are carried on in his,
34 her, or its true name and are confined and are directly related to
35 the operation of a business other than that of a collection agency,
36 such as but not limited to: Trust companies; savings and loan
37 associations; building and loan associations; abstract companies
38 doing an escrow business; real estate brokers; property management
39 companies collecting assessments, charges, or fines on behalf of
40 condominium unit owners associations, associations of apartment

1 owners, or homeowners' associations; public officers acting in their
2 official capacities; persons acting under court order; lawyers;
3 insurance companies; credit unions; loan or finance companies;
4 mortgage banks; and banks;

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

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

11 (f) Any person while acting as a debt collector for another
12 person, both of whom are related by common ownership or affiliated by
13 corporate control, if the person acting as a debt collector does so
14 only for persons to whom it is so related or affiliated and if the
15 principal business of the person is not the collection of debts.

16 (6) "Commercial claim" means any obligation for payment of money
17 or thing of value arising out of any agreement or contract, express
18 or implied, where the transaction which is the subject of the
19 agreement or contract is not primarily for personal, family, or
20 household purposes.

21 (7) "Credit card" means a card or device existing for the purpose
22 of obtaining money, property, labor, or services on credit.

23 (8) "Credit card payment" means any payment made by a credit card
24 that incurs a credit card interchange fee to the collection agency.

25 (9) "Debtor" means any person owing or alleged to owe a claim.

26 ~~((+8))~~ (10) "Director" means the director of licensing.

27 ~~((+9))~~ (11) "Licensee" means any person licensed under this
28 chapter.

29 ~~((+10))~~ (12) "Out-of-state collection agency" means a person
30 whose activities within this state are limited to collecting debts
31 from debtors located in this state by means of interstate
32 communications, including telephone, mail, or facsimile transmission,
33 from the person's location in another state on behalf of clients
34 located outside of this state, but does not include any person who is
35 excluded from the definition of the term "debt collector" under the
36 federal fair debt collection practices act (15 U.S.C. Sec. 1692a(6)).

37 ~~((+11))~~ (13) "Person" includes individual, firm, partnership,
38 trust, joint venture, association, or corporation.

39 ~~((+12))~~ (14) "Statement of account" means a report setting forth
40 only amounts billed, invoices, credits allowed, or aged balance due.

1 **Sec. 14.** RCW 19.16.250 and 2016 c 86 s 4 are each amended to
2 read as follows:

3 No licensee or employee of a licensee shall:

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

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

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

24 (4) Have in his or her possession or make use of any badge, use a
25 uniform of any law enforcement agency or any simulation thereof, or
26 make any statements which might be construed as indicating an
27 official connection with any federal, state, county, or city law
28 enforcement agency, or any other governmental agency, while engaged
29 in collection agency business.

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

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

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

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

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

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

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

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

19 (ii) Interest or service charge, collection costs, or late
20 payment charges, if any, added to the original obligation by the
21 original creditor, customer or assignor before it was received by the
22 licensee for collection, if such information is known by the licensee
23 or employee: PROVIDED, That upon written request of the debtor, the
24 licensee shall make a reasonable effort to obtain information on such
25 items and provide this information to the debtor;

26 (iii) Interest or service charge, if any, added by the licensee
27 or customer or assignor after the obligation was received by the
28 licensee for collection;

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

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

34 (vi) A statement that unless the consumer, within thirty days
35 after receipt of the notice, disputes the validity of the debt, or
36 any portion thereof, the debt will be assumed to be valid by the debt
37 collector;

38 (vii) A statement that if the consumer notifies the debt
39 collector in writing within the thirty-day period that the debt, or
40 any portion thereof, is disputed, the debt collector will obtain

1 verification of the debt or a copy of a judgment against the consumer
2 and a copy of such verification or judgment will be mailed to the
3 consumer by the debt collector;

4 (viii) A statement that, upon the consumer's written request
5 within the thirty-day period, the debt collector will provide the
6 consumer with the name and address of the original creditor, if
7 different from the current creditor; and

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

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

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

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

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

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

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

38 (a) A licensee or employee of a licensee may inform a credit
39 reporting bureau of the existence of a claim. If the licensee or
40 employee of a licensee reports a claim to a credit reporting bureau,

1 the licensee shall, upon receipt of written notice from the debtor
2 that any part of the claim is disputed, notify the credit reporting
3 bureau of the dispute by written or electronic means and create a
4 record of the fact of the notification and when the notification was
5 provided;

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

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

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

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

22 (d) A licensee may for the purpose of locating the debtor or
23 locating assets of the debtor communicate the existence of a claim to
24 any person who might reasonably be expected to have knowledge of the
25 whereabouts of a debtor or the location of assets of the debtor if
26 the claim is reduced to judgment, or if not reduced to judgment,
27 when:

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

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

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

39 (i) The licensee has notified or attempted to notify the debtor
40 in writing at his or her last known address or last known place of

1 employment concerning the claim and the debtor after a reasonable
2 time has failed to pay the claim or has failed to agree to make
3 payments on the claim in a manner acceptable to the licensee, and

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

6 (11) Threaten the debtor with impairment of his or her credit
7 rating if a claim is not paid: PROVIDED, That advising a debtor that
8 the licensee has reported or intends to report a claim to a credit
9 reporting agency is not considered a threat if the licensee actually
10 has reported or intends to report the claim to a credit reporting
11 agency.

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

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

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

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

34 (c) It is made with the debtor or spouse at his or her place of
35 residence between the hours of 9:00 p.m. and 7:30 a.m. A call to a
36 telephone is presumed to be received in the local time zone to which
37 the area code of the number called is assigned for landline numbers,
38 unless the licensee reasonably believes the telephone is located in a
39 different time zone. If the area code is not assigned to landlines in
40 any specific geographic area, such as with toll-free telephone

1 numbers, a call to a telephone is presumed to be received in the
2 local time zone of the debtor's last known place of residence, unless
3 the licensee reasonably believes the telephone is located in a
4 different time zone.

5 (14) Communicate with the debtor through use of forms or
6 instruments that simulate the form or appearance of judicial process,
7 the form or appearance of government documents, or the simulation of
8 a form or appearance of a telegraphic or emergency message.

9 (15) Communicate with the debtor and represent or imply that the
10 existing obligation of the debtor may be or has been increased by the
11 addition of attorney fees, investigation fees, service fees, or any
12 other fees or charges when in fact such fees or charges may not
13 legally be added to the existing obligation of such debtor.

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

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

21 (a) This subsection does not prohibit a licensee from attempting
22 to communicate by way of a cellular telephone or other wireless
23 device: PROVIDED, That a licensee cannot cause charges to be incurred
24 to the recipient of the attempted communication more than three times
25 in any calendar week when the licensee knows or reasonably should
26 know that the number belongs to a cellular telephone or other
27 wireless device, unless the licensee is responding to a communication
28 from the debtor or the person to whom the call is made.

29 (b) The licensee is not in violation of (a) of this subsection if
30 the licensee at least monthly updates its records with information
31 provided by a commercial provider of cellular telephone lists that
32 the licensee in good faith believes provides reasonably current and
33 comprehensive data identifying cellular telephone numbers, calls a
34 number not appearing in the most recent list provided by the
35 commercial provider, and does not otherwise know or reasonably should
36 know that the number belongs to a cellular telephone.

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

1 (18) Call, or send a text message or other electronic
2 communication to, a cellular telephone or other wireless device more
3 than twice in any day when the licensee knows or reasonably should
4 know that the number belongs to a cellular telephone or other
5 wireless device, unless the licensee is responding to a communication
6 from the debtor or the person to whom the call, text message, or
7 other electronic communication is made. The licensee is not in
8 violation of this subsection if the licensee at least monthly updates
9 its records with information provided by a commercial provider of
10 cellular telephone lists that the licensee in good faith believes
11 provides reasonably current and comprehensive data identifying
12 cellular telephone numbers, calls a number not appearing in the most
13 recent list provided by the commercial provider, and does not
14 otherwise know or reasonably should know that the number belongs to a
15 cellular telephone. Nothing in this subsection may be construed to
16 increase the number of communications permitted pursuant to
17 subsection (13)(a) of this section.

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

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

23 (21) Collect or attempt to collect in addition to the principal
24 amount of a claim any sum other than:

25 (a) Allowable interest, collection costs or handling fees
26 expressly authorized by statute(~~(, and ,)~~);

27 (b) A transaction fee for processing a credit card payment in an
28 amount that does not exceed two and one-half percent of the payment
29 amount, provided that a no-cost payment option is available to the
30 debtor and the option is disclosed to the debtor at the same time and
31 in the same manner as the debtor's credit card information is taken;

32 (c) In the case of suit, attorney's fees and taxable court
33 costs(~~(. A licensee may collect or attempt to collect))~~); and

34 (d) In the case of a commercial claim, collection costs and fees,
35 including contingent collection fees, as authorized by a written
36 agreement or contract, between the licensee's client and the
37 debtor(~~(, in the collection of a commercial claim))~~). The amount
38 charged to the debtor for collection services shall not exceed
39 thirty-five percent of the commercial claim.

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

7 (23) Seek a default judgment against a debtor unless the
8 licensee:

9 (a) Has access to a copy of a contract or other document
10 evidencing the debtor's agreement to the debt or documentation
11 demonstrating that the debt was incurred by the debtor; and

12 (b) Provides the debtor with a notice indicating in clear and
13 legible type:

14 (i) The name of the licensee and the city, street, and number at
15 which he or she is licensed to do business;

16 (ii) The name of the original creditor to whom the debtor owed
17 the claim if such name is known to the licensee or employee:
18 PROVIDED, That upon written request of the debtor, the licensee shall
19 provide this name to the debtor or cease efforts to collect on the
20 debt until this information is provided;

21 (iii) If the notice is the first notice to the debtor or if the
22 licensee is attempting to collect a different amount than indicated
23 in his or her or its first notice to the debtor, an itemization of
24 the claim asserted must be made including:

25 (A) The debt balance at charge off and an explanation of the
26 amount, nature, and reason for all postcharge-off interest and fees,
27 if any, imposed by the charge-off creditor or any subsequent
28 purchasers of the debt;

29 (B) The date of default or the date of the last payment;

30 (C) The name and an address of the charge-off creditor at the
31 time of charge off, and the charge-off creditor's account number
32 associated with the debt;

33 (D) Amount owing on the original obligation at the time it was
34 received by the licensee for collection or by assignment;

35 (E) Collection costs, if any, that the licensee is attempting to
36 collect;

37 (F) Attorneys' fees, if any, that the licensee is attempting to
38 collect on his or her or its behalf or on the behalf of a customer or
39 assignor; and

1 (G) Any other charge or fee that the licensee is attempting to
2 collect on his or her or its own behalf or on the behalf of a
3 customer or assignor;

4 (vi) If the notice concerns a judgment obtained against the
5 debtor, the licensee shall include an itemization of the debt balance
6 at charge off; the date of default or the date of the last payment;
7 an itemization of any payments made by the debtor after the debt was
8 charged off; postjudgment interest, if claimed; and the current
9 account balance; and

10 (v) If the notice is the first notice to the debtor, an
11 itemization of the claim asserted must be made including the
12 information in (b)(iii) of this subsection and:

13 (A) A separate prominent notice in no smaller than twelve-point
14 type that provides:

15 "You may request records showing the following: (1) That (insert
16 name of licensee) has the right to seek collection of the debt; (2)
17 the debt balance, including an explanation of any interest charges
18 and additional fees; (3) the date of default or the date of the last
19 payment; (4) the name of the charge-off creditor and the account
20 number associated with the debt; (5) the name and last known address
21 of the debtor as it appeared in the charge-off creditor's or debt
22 buyer's records prior to the sale of the debt, as appropriate; and
23 (6) the names of all persons or entities that have purchased the
24 debt. You may also request from us a copy of the contract or other
25 document evidencing your agreement to the debt. A request for these
26 records may be addressed to: (insert licensee's active mailing
27 address and email address, if applicable).";

28 (B) Certification that the itemization of the claim was made
29 based on a personal review of account level documentation provided by
30 the original creditor; and

31 (C) A copy of the account level documentation reviewed by the
32 licensee pursuant to (b)(v)(B) of this subsection (23).

33 (24) Bring an action or initiate an arbitration proceeding on a
34 claim when the licensee knows, or reasonably should know, that such
35 suit or arbitration is barred by the applicable statute of
36 limitations.

37 ((+24)) (25) Upon notification by a debtor that the debtor
38 disputes all debts arising from a series of dishonored checks,
39 automated clearinghouse transactions on a demand deposit account, or
40 other preprinted written instruments, initiate oral contact with a

1 debtor more than one time in an attempt to collect from the debtor
2 debts arising from the identified series of dishonored checks,
3 automated clearinghouse transactions on a demand deposit account, or
4 other preprinted written instruments when: (a) Within the previous
5 one hundred eighty days, in response to the licensee's attempt to
6 collect the initial debt assigned to the licensee and arising from
7 the identified series of dishonored checks, automated clearinghouse
8 transactions on a demand deposit account, or other preprinted written
9 instruments, the debtor in writing notified the licensee that the
10 debtor's checkbook or other series of preprinted written instruments
11 was stolen or fraudulently created; (b) the licensee has received
12 from the debtor a certified copy of a police report referencing the
13 theft or fraudulent creation of the checkbook, automated
14 clearinghouse transactions on a demand deposit account, or series of
15 preprinted written instruments; (c) in the written notification to
16 the licensee or in the police report, the debtor identified the
17 financial institution where the account was maintained, the account
18 number, the magnetic ink character recognition number, the full bank
19 routing and transit number, and the check numbers of the stolen
20 checks, automated clearinghouse transactions on a demand deposit
21 account, or other preprinted written instruments, which check numbers
22 included the number of the check that is the subject of the
23 licensee's collection efforts; (d) the debtor provides, or within the
24 previous one hundred eighty days provided, to the licensee a legible
25 copy of a government-issued photo identification, which contains the
26 debtor's signature and which was issued prior to the date of the
27 theft or fraud identified in the police report; and (e) the debtor
28 advised the licensee that the subject debt is disputed because the
29 identified check, automated clearinghouse transaction on a demand
30 deposit account, or other preprinted written instrument underlying
31 the debt is a stolen or fraudulently created check or instrument.

32 The licensee is not in violation of this subsection if the
33 licensee initiates oral contact with the debtor more than one time in
34 an attempt to collect debts arising from the identified series of
35 dishonored checks, automated clearinghouse transactions on a demand
36 deposit account, or other preprinted written instruments when: (i)
37 The licensee acted in good faith and relied on their established
38 practices and procedures for batching, recording, or packeting debtor
39 accounts, and the licensee inadvertently initiates oral contact with
40 the debtor in an attempt to collect debts in the identified series

1 subsequent to the initial debt assigned to the licensee; (ii) the
2 licensee is following up on collection of a debt assigned to the
3 licensee, and the debtor has previously requested more information
4 from the licensee regarding the subject debt; (iii) the debtor has
5 notified the licensee that the debtor disputes only some, but not all
6 the debts arising from the identified series of dishonored checks,
7 automated clearinghouse transactions on a demand deposit account, or
8 other preprinted written instruments, in which case the licensee
9 shall be allowed to initiate oral contact with the debtor one time
10 for each debt arising from the series of identified checks, automated
11 clearinghouse transactions on a demand deposit account, or written
12 instruments and initiate additional oral contact for those debts that
13 the debtor acknowledges do not arise from stolen or fraudulently
14 created checks or written instruments; (iv) the oral contact is in
15 the context of a judicial, administrative, arbitration, mediation, or
16 similar proceeding; or (v) the oral contact is made for the purpose
17 of investigating, confirming, or authenticating the information
18 received from the debtor, to provide additional information to the
19 debtor, or to request additional information from the debtor needed
20 by the licensee to accurately record the debtor's information in the
21 licensee's records.

22 ~~((+25+))~~ (26) Bring an action or initiate an arbitration
23 proceeding on a claim for any amounts related to a transfer of sale
24 of a vehicle when:

25 (a) The licensee has been informed or reasonably should know that
26 the department of licensing transfer of sale form was filed in
27 accordance with RCW 46.12.650 (1) through (3);

28 (b) The licensee has been informed or reasonably should know that
29 the transfer of the vehicle either (i) was not made pursuant to a
30 legal transfer or (ii) was not voluntarily accepted by the person
31 designated as the purchaser/transferee; and

32 (c) Prior to the commencement of the action or arbitration, the
33 licensee has received from the putative transferee a copy of a police
34 report referencing that the transfer of sale of the vehicle either
35 (i) was not made pursuant to a legal transfer or (ii) was not
36 voluntarily accepted by the person designated as the purchaser/
37 transferee.

38 ~~((+26+))~~ (27) Submit an affidavit or other request pursuant to
39 chapter 6.32 RCW asking a superior or district court to transfer a

1 bond posted by a debtor subject to a money judgment to the licensee,
2 when the debtor has appeared as required.

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