
SUBSTITUTE HOUSE BILL 1864

State of Washington

62nd Legislature

2011 Regular Session

By House Business & Financial Services (originally sponsored by Representatives Stanford, Frockt, Fitzgibbon, Ryu, Billig, Moscoso, Ladenburg, and Kenney)

READ FIRST TIME 02/17/11.

1 AN ACT Relating to business practices of collection agencies; and
2 reenacting and amending RCW 19.16.250.

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

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

6 No licensee or employee of a licensee shall:

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

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

16 (3) Publish or post or cause to be published or posted, any list of
17 debtors commonly known as "bad debt lists" or threaten to do so. For
18 purposes of this chapter, a "bad debt list" means any list of natural
19 persons alleged to fail to honor their lawful debts. However, nothing

1 herein shall be construed to prohibit a licensee from communicating to
2 its customers or clients by means of a coded list, the existence of a
3 check dishonored because of insufficient funds, not sufficient funds or
4 closed account by the financial institution servicing the debtor's
5 checking account: PROVIDED, That the debtor's identity is not readily
6 apparent: PROVIDED FURTHER, That the licensee complies with the
7 requirements of subsection (9)(e) of this section.

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

14 (5) Perform any act or acts, either directly or indirectly,
15 constituting the practice of law.

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

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

24 (8) Give or send to any debtor or cause to be given or sent to any
25 debtor, any notice, letter, message, or form which represents or
26 implies that a claim exists unless it shall indicate in clear and
27 legible type:

28 (a) The name of the licensee and the city, street, and number at
29 which he is licensed to do business;

30 (b) The name of the original creditor to whom the debtor owed the
31 claim if such name is known to the licensee or employee: PROVIDED,
32 That upon written request of the debtor, the licensee shall (~~make a~~
33 ~~reasonable effort to obtain the name of such person and~~) provide this
34 name to the debtor or cease efforts to collect on the debt until this
35 information is provided;

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

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

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

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

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

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

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

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

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

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

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

36 (9) Communicate or threaten to communicate, the existence of a
37 claim to a person other than one who might be reasonably expected to be

1 liable on the claim in any manner other than through proper legal
2 action, process, or proceedings except under the following conditions:

3 (a) A licensee or employee of a licensee may inform a credit
4 reporting bureau of the existence of a claim: PROVIDED, That if the
5 licensee or employee of a licensee reports a claim to a credit
6 reporting bureau, the licensee shall upon receipt of written notice
7 from the debtor that any part of the claim is disputed, forward a copy
8 of such written notice to the credit reporting bureau;

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

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

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

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

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

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

35 (ii) The debtor has not in writing disputed any part of the 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:

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

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

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

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

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

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

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

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

29 (13) Communicate with the debtor through use of forms or
30 instruments that simulate the form or appearance of judicial process,
31 the form or appearance of government documents, or the simulation of a
32 form or appearance of a telegraphic or emergency message.

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

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

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

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

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

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

25 (20) Upon notification by a debtor that the debtor disputes all
26 debts arising from a series of dishonored checks, automated
27 clearinghouse transactions on a demand deposit account, or other
28 preprinted written instruments, initiate oral contact with a debtor
29 more than one time in an attempt to collect from the debtor debts
30 arising from the identified series of dishonored checks, automated
31 clearinghouse transactions on a demand deposit account, or other
32 preprinted written instruments when: (a) Within the previous one
33 hundred eighty days, in response to the licensee's attempt to collect
34 the initial debt assigned to the licensee and arising from the
35 identified series of dishonored checks, automated clearinghouse
36 transactions on a demand deposit account, or other preprinted written
37 instruments, the debtor in writing notified the licensee that the
38 debtor's checkbook or other series of preprinted written instruments

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

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

1 oral contact with the debtor one time for each debt arising from the
2 series of identified checks, automated clearinghouse transactions on a
3 demand deposit account, or written instruments and initiate additional
4 oral contact for those debts that the debtor acknowledges do not arise
5 from stolen or fraudulently created checks or written instruments; (iv)
6 the oral contact is in the context of a judicial, administrative,
7 arbitration, mediation, or similar proceeding; or (v) the oral contact
8 is made for the purpose of investigating, confirming, or authenticating
9 the information received from the debtor, to provide additional
10 information to the debtor, or to request additional information from
11 the debtor needed by the licensee to accurately record the debtor's
12 information in the licensee's records.

13 (21) Submit an affidavit or other request pursuant to chapter 6.32
14 RCW asking a superior or district court to transfer a bond posted by a
15 debtor subject to a money judgment to the licensee, when the debtor has
16 appeared as required.

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