

SHB 2524 - S COMM AMD
By Committee on Judiciary

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

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

5 No licensee or employee of a licensee shall:

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

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

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

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

1 agency, or any other governmental agency, while engaged in collection
2 agency business.

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

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

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

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

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

19 (b) The name of the original creditor to whom the debtor owed the
20 claim if such name is known to the licensee or employee: PROVIDED,
21 That upon written request of the debtor, the licensee shall make a
22 reasonable effort to obtain the name of such person and provide this
23 name to the debtor;

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

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

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

37 (iii) Interest or service charge, if any, added by the licensee or

1 customer or assignor after the obligation was received by the licensee
2 for collection;

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

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

8 (vi) 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 customer
10 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 in
13 the judgment, except postjudgment interest, if claimed, is required.

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

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

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

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

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

37 (ii) The debtor has not in writing to the licensee disputed any
38 part of the claim: PROVIDED, That the licensee or employee may only

1 communicate the existence of a claim which has not been reduced to
2 judgment to the debtor's employer once unless the debtor's employer has
3 agreed to additional communications.

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

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

14 (ii) The debtor has not in writing disputed any part of the 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 in
19 writing at his or her last known address or last known place of
20 employment concerning the claim and the debtor after a reasonable time
21 has failed to pay the claim or has failed to agree to make payments on
22 the claim in a manner acceptable to the licensee, and

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

24 (10) Deceptively threaten the debtor with impairment of his or her
25 credit rating if a claim is not paid.

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

34 (12) Communicate with a debtor or anyone else in such a manner as
35 to harass, intimidate, threaten, or embarrass a debtor, including but
36 not limited to communication at an unreasonable hour, with unreasonable
37 frequency, by threats of force or violence, by threats of criminal

1 prosecution, (~~and~~) by use of offensive language, or in a way that
2 actively creates a false impression. A communication shall be presumed
3 to have been made for the purposes of harassment if:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4 (21) Bring suit, initiate an arbitration proceeding, or otherwise
5 attempt to collect on a debt when the licensee or employee knows, or
6 reasonably should know, that such collection is barred by the
7 applicable statute of limitations.

8 (22) Proceed with collection of a debt until, following the request
9 of a debtor, the licensee provides the debtor documentation and
10 verification of the existence and validity of the debt."

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11 On page 1, line 1 of the title, after "agencies;" strike the
12 remainder of the title and insert "and reenacting and amending RCW
13 19.16.250."

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