

SENATE BILL REPORT

SSB 6093

AS PASSED SENATE, FEBRUARY 11, 1994

Brief Description: Revising the definition of "collection agency."

SPONSORS: Senate Committee on Law & Justice (originally sponsored by Senators A. Smith and Nelson)

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: That Substitute Senate Bill No. 6093 be substituted therefor, and the substitute bill do pass.

Signed by Senators A. Smith, Chairman; Ludwig, Vice Chairman; Hargrove, Nelson, Quigley, Roach, Schow and Spanel.

Staff: Jon Carlson (786-7459)

Hearing Dates: January 25, 1994; February 2, 1994

HOUSE COMMITTEE ON COMMERCE & LABOR

BACKGROUND:

A collection agency means and includes any person directly or indirectly engaged in soliciting claims for collection, or collecting or attempting to collect claims owed or due or asserted to be owed or due another person.

In order to act or advertise as a collection agency in Washington State, a person must first obtain a license from the director of the Department of Licensing (DOL). The license requirements include establishing a regular active business office in this state. All business records must be kept at the office, which is required to be open to the public during reasonably stated business hours. The licensee must also maintain a customer trust fund account in this state in which all moneys collected by the licensee are deposited.

These requirements preclude out-of-state collection agencies from communicating with a debtor in Washington State unless the agency complies with the licensing requirements of DOL.

Language is suggested which would allow out-of-state collection agencies to follow debtors into Washington State in order to collect or attempt to collect on claims for the agency's clients without violating state licensing provisions.

SUMMARY:

A person is not considered a "collection agency" if the person is located in another state and is collecting debts from debtors located in this state by means of interstate

communications, such as telephone, mail, or FAX. If the substance of a communication is contrary to collection practice law in this state, then the person is subject to this state's jurisdiction.

Appropriation: none

Revenue: none

Fiscal Note: none requested

TESTIMONY FOR:

Out-of-state collection agencies are unable to pursue debtors who come to Washington unless the agencies are licensed in Washington. This measure would allow these out-of-state agencies to contact debtors in Washington State by means of interstate communications, such as telephone, mail, or FAX without being licensed.

TESTIMONY AGAINST: None

TESTIFIED: Mark Gjurasic, Pat Mitchell, Nancy Swaffield, WA Collectors Assn.

HOUSE AMENDMENT(S):

A separate license is created for out-of-state collection agencies whose activities in this state are limited to collecting debts by means of interstate communications, such as telephone, mail, or FAX, from another state for clients located in another state.

The license fees for all out-of-state licensees must not exceed 50 percent of the license fees for other collection agencies.

An out-of-state license is exempt from the license fees if the agency is housed or registered in another state and that state does not charge license fees to out-of-state licensees.

An out-of-state license is exempt from certain requirements applicable to collection agencies, including: (1) posting a bond, if the licensee maintains a bond or legal alternative in its home state; (2) maintaining a trust account in Washington; and (3) maintaining a business office in Washington.

An out-of-state licensee is deemed to have appointed the Director of Licensing as the licensee's agent for purposes of service of process.

All prohibited practices and enforcement provisions applying to collection agencies also apply to out-of-state collection agencies.