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HOUSE BILL 1512

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State of Washington

55th Legislature

1997 Regular Session

By Representatives Mulliken, Sheldon, Sherstad, Dunn, Boldt and Chandler

Read first time 01/29/97. Referred to Committee on Government Administration.

1 AN ACT Relating to the use of collection agencies by governmental  
2 entities; and amending RCW 19.16.250 and 19.16.500.

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

4 **Sec. 1.** RCW 19.16.250 and 1983 c 107 s 1 are each amended to read  
5 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;

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

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

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

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

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

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

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

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

25 (a) A licensee or employee of a licensee may inform a credit  
26 reporting bureau of the existence of a claim: PROVIDED, That if the  
27 licensee or employee of a licensee reports a claim to a credit  
28 reporting bureau, the licensee shall upon receipt of written notice  
29 from the debtor that any part of the claim is disputed, forward a copy  
30 of such written notice to the credit reporting bureau;

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

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

37 (i) The licensee or employee has notified or attempted to notify  
38 the debtor in writing at his last known address or place of employment  
39 concerning the claim and the debtor after a reasonable time has failed

1 to pay the claim or has failed to agree to make payments on the claim  
2 in a manner acceptable to the licensee, and

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

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

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

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

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

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

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

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

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

38 (12) Communicate with a debtor or anyone else in such a manner as  
39 to harass, intimidate, threaten, or embarrass a debtor, including but

1 not limited to communication at an unreasonable hour, with unreasonable  
2 frequency, by threats of force or violence, by threats of criminal  
3 prosecution, and by use of offensive language. A communication shall  
4 be presumed to have been made for the purposes of harassment if:

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

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.

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

15 (14) Communicate with the debtor and represent or imply that the  
16 existing obligation of the debtor may be or has been increased by the  
17 addition of attorney fees, investigation fees, service fees, or any  
18 other fees or charges when in fact such fees or charges may not legally  
19 be added to the existing obligation of such debtor.

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

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

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

29 (18) Except under RCW 19.16.500, collect or attempt to collect in  
30 addition to the principal amount of a claim any sum other than  
31 allowable interest, collection costs or handling fees expressly  
32 authorized by statute, and, in the case of suit, attorney's fees and  
33 taxable court costs.

34 (19) Procure from a debtor or collect or attempt to collect on any  
35 written note, contract, stipulation, promise or acknowledgment under  
36 which a debtor may be required to pay any sum other than principal,  
37 allowable interest, and, in the case of suit, attorney's fees and  
38 taxable court costs.

1       **Sec. 2.** RCW 19.16.500 and 1982 c 65 s 1 are each amended to read  
2 as follows:

3       (1)(a) Agencies, departments, taxing districts, political  
4 subdivisions of the state, counties, and incorporated cities may  
5 retain, by written contract, collection agencies licensed under this  
6 chapter for the purpose of collecting public debts owed by any person.

7       (b) Any governmental entity using a collection agency under (a) of  
8 this subsection shall add a collection fee to the outstanding debt.  
9 This fee shall be paid by the debtor and is full payment to the  
10 collection agency for the costs incurred by the governmental entity.  
11 The fee is fifty percent of the outstanding principal, but not less  
12 than fifty dollars.

13       (2) No debt may be assigned to a collection agency unless (a) there  
14 has been an attempt to advise the debtor (i) of the existence of the  
15 debt and (ii) that the debt may be assigned to a collection agency for  
16 collection if the debt is not paid, and (b) at least thirty days have  
17 elapsed from the time the notice was sent.

18       (3) Collection agencies assigned debts under this section shall  
19 have only those remedies and powers which would be available to them as  
20 assignees of private creditors.

21       (4) For purposes of this section, the term debt shall include fines  
22 and other debts, including the fee required under subsection (1)(b) of  
23 this section.

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