

# HOUSE BILL REPORT

## HB 2325

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**As Reported by House Committee On:**  
Commerce & Labor

**Title:** An act relating to prohibited practices of collection agencies.

**Brief Description:** Modifying the prohibited practices of collection agencies.

**Sponsors:** Representatives Wood, Condotta, O'Brien, Hankins and Moeller.

**Brief History:**

**Committee Activity:**

Commerce & Labor: 1/14/04, 2/5/04 [DPS].

**Brief Summary of Substitute Bill**

- Limits collection agency communication with people other than the debtor for the purpose of locating the debtor.

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### HOUSE COMMITTEE ON COMMERCE & LABOR

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 6 members: Representatives Conway, Chair; Wood, Vice Chair; Condotta, Assistant Ranking Minority Member; Hudgins, Kenney and McCoy.

**Minority Report:** Do not pass. Signed by 3 members: Representatives McMorris, Ranking Minority Member; Crouse and Holmquist.

**Staff:** Susan Kavanaugh (786-7106).

**Background:**

Washington collection agency law and the federal Fair Debt Collections Practices Act (Act) govern businesses that collect debts for other businesses.

The Act prohibits further contact with a debtor to demand payment if the debtor sends the collection agency a written request to stop. Under Washington law, collection agents are prohibited from, among other things, harassing debtors. State law also prohibits debt collectors from communicating with a debtor's employer more than once in an effort to

obtain payment, unless the employer agrees to more, but does not address repeat contacts with others who are not the debtor. Under the Act, a collection agency may contact other people only in an effort to locate the debtor. The collector may not tell people contacted in searching for the debtor that the person being sought owes money. When contacting someone other than the debtor, debt collectors must identify themselves, but are required not to identify their employer (the collection agency) unless expressly requested.

There are 809 collection agencies licensed to collect in Washington. In 2003, the Department of Licensing, Business and Professions Division Complaint Tracking System showed 159 complaints received regarding collection agencies. Also in 2003, the Attorney General's Consumer Protection Division received 1,100 complaints regarding collections, giving the collections industry a ranking of fifth in a listing of the top 20 areas generating consumer complaints.

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### **Summary of Substitute Bill:**

It is presumed to be harassment, and is therefore prohibited, for a collection agency or any of its employees to communicate with anyone other than the debtor or the debtor's spouse, for purposes of locating the debtor, unless all of the following apply:

- Each time there is communication, the collection agent or employee tells the person being contacted the name of the collection agency and its mailing address and telephone number, if expressly requested to do so.
- Communication occurs no more than once, except at the debtor's residence or place of employment, unless one of the following is the case:
  1. the individual requests additional communication; or
  2. the agent reasonably believes the individual's earlier response was erroneous or incomplete and that the individual now has correct or complete information about the location of the debtor.
- Communication ceases after the person notifies the collection agency in writing to stop contact. However, it is not presumed to be harassment if the additional contact is made with an employer or other individual in control of the debtor's assets in order to enforce a garnishment order.

### **Substitute Bill Compared to Original Bill:**

It is specified that the communication to which the restrictions apply is communication made in an effort to locate the debtor.

Collection agents or employees are required to disclose the name, mailing address, and phone number of the collection agency only if expressly requested to do so.

Communication is allowed only once unless either: (a) the individual requests additional communication, or (b) the agent reasonably believes the individual's earlier response was erroneous or incomplete and that the individual now has correct or complete information about the location of the debtor.

Additional communication with an employer or other individual in control of the debtor's assets, even if this employer or other individual asks the collection agent to cease, is allowed for the purpose of court-ordered garnishment or other post-judgment remedy.

The emergency clause is removed.

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**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date of Substitute Bill:** The bill takes effect 90 days after adjournment of session in which bill is passed.

**Testimony For:** This bill arose from a situation in which phone callers working for a collection agency contacted a citizen multiple times. The callers hung up when requested to identify themselves, and then called again the next day. As with reporters, debt collectors should be required to identify themselves every time they call. The bill has been corrected to comply with federal statute. Collection agencies are getting more aggressive and using questionable tactics in their collection practices. Collection agencies are number eight on the Attorney General's list of industries generating consumer complaints.

**Testimony Against:** Collection agencies are already highly regulated. The limits on the number of contacts with third parties could make it difficult to discuss a situation with client businesses for whom a debt is being collected, to work with an interpreter, and to work with people handling the financial affairs of those in the military. The prohibition on further contact with a third party who asks a debt collector to cease could prevent garnishment of the wages of a debtor. There are an estimated 40 million debt collection calls per year in Washington, which puts the number of complaints into perspective.

**Persons Testifying:** (In support) Representative Wood, prime sponsor.

(Opposed) Judith Warnick, Washington Collectors Association.

**Persons Signed In To Testify But Not Testifying:** None.

