
SUBSTITUTE HOUSE BILL 2325

State of Washington

58th Legislature

2004 Regular Session

By House Committee on Commerce & Labor (originally sponsored by Representatives Wood, Condotta, O'Brien, Hankins and Moeller)

READ FIRST TIME 02/06/04.

1 AN ACT Relating to prohibited 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;

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

1 concerning the claim and the debtor after a reasonable time has failed
2 to pay the claim or has failed to agree to make payments on the claim
3 in a manner acceptable to the licensee, and

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

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

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

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

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

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

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

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

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

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

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

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

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

13 (d) It is made with a person other than the debtor or the debtor's
14 spouse to locate the debtor or the debtor's assets:

15 (i) Without, on each occasion, identifying himself or herself by
16 name and informing the person of the licensee's name, mailing address,
17 and telephone number if expressly requested to do so;

18 (ii) At a place other than the debtor's place of employment or the
19 debtor's place of residence more than once unless requested to do so by
20 the person or unless the debt collector reasonably believes that the
21 earlier response of the person is erroneous or incomplete and that the
22 person now has correct or complete information about the debtor's
23 location; or

24 (iii) After the person other than the debtor or the debtor's spouse
25 notifies the licensee in writing to cease and desist from communicating
26 with him or her. However, such contact with an employer or other
27 individual in control of the debtor's assets is not presumed to be
28 harassment if it is reasonably necessary to effectuate a postjudgment
29 remedy or if it is made with the permission of a court of competent
30 jurisdiction.

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

35 (14) Communicate with the debtor and represent or imply that the
36 existing obligation of the debtor may be or has been increased by the
37 addition of attorney fees, investigation fees, service fees, or any

1 other fees or charges when in fact such fees or charges may not legally
2 be added to the existing obligation of such debtor.

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

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

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

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

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

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

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

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

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

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