

SENATE BILL REPORT

SHB 2524

As Reported by Senate Committee On:
Judiciary, February 26, 2010

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

Brief Description: Concerning prohibited practices of collection agencies.

Sponsors: House Committee on Commerce & Labor (originally sponsored by Representatives O'Brien and Angel).

Brief History: Passed House: 2/10/10, 94-0; 96-0 (reconsidered).

Committee Activity: Judiciary: 2/19/10, 2/26/10 [DPA, w/oRec].

SENATE COMMITTEE ON JUDICIARY

Majority Report: Do pass as amended.

Signed by Senators Kline, Chair; Regala, Vice Chair; Gordon, Hargrove, Kohl-Welles and Roach.

Minority Report: That it be referred without recommendation.

Signed by Senator Carrell.

Staff: Karen Campbell (786-7448)

Background: Collection agencies are prohibited from engaging in certain practices when attempting to collect debts. For example, a collection agency cannot threaten a debtor with impairment of the debtor's credit rating if a claim is not paid. Credit agencies cannot harass a debtor. Harassment is presumed if the collection agency:

- contacts a debtor more than three times in a single week;
- contacts a debtor at the debtor's place of employment more than one time in a single week; or
- contacts the debtor or spouse at his or her place of residence between 9:00 p.m. and 7:30 a.m.

Collection agencies are required to provide a debtor with an itemization of the amounts the collection agency will seek to collect on the claim. This information must be included in the first claim notice sent to the debtor and includes the following:

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- the amount owing on the original obligation at the time it was received by the collection agency;
- interest or service charge, collection costs, or late payment charges, if any, added by the original creditor before it was received by the collection agency;
- interest or service charge, if any, added by the collection agency customer or assignor after it was received by the collection agency;
- collections costs, if any, that the collection agency is attempting to collect;
- attorneys' fees, if any, that the collection agency is attempting to collect on its behalf or on the behalf of the customer or assignor; and
- any other charge or fee that the collection agency is attempting to collect on its behalf or on behalf of the customer or assignor.

Collection agencies have to include this information in subsequent notices if the amount owed changes. If a debtor disputes a claim in writing, the collection agency must forward a copy of the dispute to the credit reporting bureau.

Summary of Bill (Recommended Amendments): Changes are made to the prohibited practices of collection agencies by modifying provisions related to collection agency communication with debtors. A collection agency may not communicate with a debtor in a way that actively creates a false impression. The prohibition on threatening a debtor with impairment of the debtor's credit rating is limited to those situations where the threats are deceptive.

A subsequent claim notice does not need to contain an itemization of the amount owed by the debtor if the amount sought concerns a judgment against the debtor. However, post judgment interest must be itemized if claimed.

When the debtor provides the collection agency with written notice disputing the claim, the collection agency must inform the credit reporting bureau, by written or electronic means of the dispute, and create a record of the dispute and when the notification was provided. A collection agency is prohibited from proceeding with the collection of the debt until the debtor has received notice and verification of the debt. This prohibition is activated when the debtor requests notice of the amounts owed. A collection agency is prohibited from attempting to collect a debt that is barred by the statute of limitations.

A collection agency's response to a communication from a debtor does not count against the number of allowed communications in a week.

A collection agency's call to a telephone is presumed to be received in the time zone to which the area code of the number called is assigned for landline numbers, unless the collection agency has a reasonable belief that the telephone is located elsewhere. If the area code is not assigned to landline telephone numbers, the collection agency may presume that the call is received in the time zone of the debtor's last known residence, unless the collection agency has a reasonable belief that the telephone is located elsewhere.

EFFECT OF CHANGES MADE BY JUDICIARY COMMITTEE (Recommended Amendments): Three prohibited practices are added. A collection agency may not communicate with a debtor in a way that actively creates a false impression. Collection

agencies cannot attempt to collect a debt that is barred by the statute of limitations. A collection agency cannot proceed with the collection of a debt until the debtor has received notice and verification of the debt. This prohibition is activated when the debtor requests notice of the amounts owed.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Substitute House Bill: PRO: This is a streamlined bill which reflects the judgment of debtor and creditor representatives. It is important to have rules that govern the use of cell phones in today's society. It is difficult for collection agencies to know whether a home telephone number, provided by the debtor, has been imported into a cellular phone number. The regulations governing collection agencies must be updated to provide guidance on this issue.

Persons Testifying: PRO: Representative O'Brien, prime sponsor; Kevin Underwood, Washington Collector's Association; Greg Luhn, Washington Collector's Association.