

# SENATE BILL REPORT

## SB 6245

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As of February 8, 2010

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

**Brief Description:** Concerning prohibited practices of collection agencies.

**Sponsors:** Senators Kline, Carrell and Rockefeller.

**Brief History:**

**Committee Activity:** Judiciary: 1/19/10.

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### SENATE COMMITTEE ON JUDICIARY

**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:

- 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, 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

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- 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:** The bill as referred to committee not considered.

**Summary of Bill (Proposed Substitute):** In subsequent notices to the debtor, a collection agency must only itemize the portions of the claim that are different. No itemization is required if the difference in the amounts is because of the addition of interest or the claim involves a judgment against the debtor. 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.

Although a collection agency cannot threaten a debtor with impairment of his credit rating if a claim is not paid, a collection agency may inform the debtor that the claim could be reported to a credit bureau and the consequences thereof. Written communications, sent through the United States postal service, are not considered harassing communications to a debtor.

The act adds a new section which defines week and communicate or communication as follows:

- week is a series of seven consecutive days beginning on a Sunday; and
- communicate or communication means any contact with a debtor or spouse initiated by the licensee, in person, by telephone, or in writing, including emails, text messages, and other electronic writing, regarding the collection of a claim.

Communications do not include:

- contact with the debtor while physically present in the collection agency's place of business;
- a telephone call which is not answered by a live person and in which no message, other than a caller ID, is left unless the call is made to the debtor or spouse at the debtor's place of residence between the hours of 9:00 p.m. and 7:30 a.m.;
- a letter to the debtor that includes disclosures required by state, federal, local law or regulation;
- pleadings or other legal documents served or provided in connection with a legal proceeding, mediation, or arbitration;
- contact responding to a communication from a debtor or a spouse;
- contact with an attorney for a debtor or spouse; and
- contact by the debtor asking the collection agency to return his or her call.

The act adds a new section relating to time zones and calls made to cellular phones. A call to a debtor's cell phone does not constitute a call to the debtor's place of business. A call to a cell phone is presumed to have been received in the time zone in which the area code is assigned for landline numbers. If the number called does not have an area code assigned to a

landline in any specific geographic area, such as a toll-free number, a collection agency may presume that a call to a cell phone number is received in the local time zone of the debtor's last known place of residence.

**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:** PRO: The notice requirements should be simplified. Judgments do not need to be itemized because the amounts are clearly set forth in the judgment. A collection agency should not have to itemize a change in amount if it occurs solely because of the accrual of interest. Because of the technology used in processing claims, it is difficult for collections agencies to determine how much interest has accrued when subsequent notices are sent. It is difficult to know when a debtor is at work when a collection agency calls a cell phone number. For this reason, a call to a cell phone should not constitute a call to a debtor at their place of employment. The law should be changed to reflect the fact that cell phone usage is common and prevalent in today's society. Collection agencies need guidance regarding what constitutes a week to ensure that the term is applied uniformly.

CON: Harassment by debt collectors is sky rocketing. The act would allow the debtor to be buried by mail and for debtors to be harassed as long as they were at the collection agency's place of business. Itemization in all claim notices is necessary because debtors need to know what they owe and how the collection agency calculated the amount. This helps a debtor determine whether or not he or she should contest the amount. Federal law regulating debt collection may conflict with the news sections of the act that address cell phone usage and the definition of communicate or communication.

**Persons Testifying:** PRO: Kevin Underwood, Bob Polus, Washington Collector's Association.

CON: Bruce Neas, Columbia Legal Services.