Washington State
House of Representatives
Office of Program Research

BILL ANALYSIS

Business & Financial Services Committee

SSB 5574

Brief Description: Concerning collection agencies.

Sponsors: Senate Committee on Judiciary (originally sponsored by Senators Harper and Kline).

Brief Summary of Substitute Bill

- Makes a number of changes related to the prohibited practices of collection agencies.
- Adds prohibited practice standards specifically related to calling or texting a cellular telephone or wireless device.
- Prohibits a collection agency from bringing an action or initiating an arbitration on a claim when the collection agency knows the suit or arbitration is barred by the applicable statute of limitations.

Hearing Date: 3/8/11

Staff: Jon Hedegard (786-7127).

Background:

Background:
The Department of Licensing licenses collection agencies. No person may act as a collection agency unless licensed or exempt from licensing.

Federal Law.
Collection agencies are also regulated by federal law. The federal Fair Debt Collection Practices Act (FDCPA) permits and prohibits certain practices. The state Collection Agencies Act (CAA) also regulates and prohibits certain practices. Where there is an inconsistency with state law, the FDCPA supersedes state law, unless there is an exemption for the class of debt collection practices at issue. A state law is not inconsistent with the FDCPA if it affords greater consumer protection than the FDCPA.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Under the FDCPA, "communication" is defined as the conveying of information regarding a debt directly or indirectly to any person through any medium. A collection agency may not communicate with a debtor at a time or place that is inconvenient and the collection agency is to assume that the convenient time for communicating is between 8:00 a.m. and 9:00 p.m. Communicating with the debtor at the debtor's place of business is prohibited if the collection agency knows or has reason to know that the debtor's employer does not allow the debtor to engage in such communication at work.

Prohibited Practices Under State Law.
When a collection agency sends a first notice to a debtor about a claim or a subsequent notice attempting to collect a different amount than indicated in the first notice, the collection agency must include:

- the name and address of the collection agency;
- the name of the original creditor if known; and
- an itemization of the claim asserted including: (1) the amount owing on the original obligation; and (2) any interest charge or fee added to the original obligation.

A collection agency may inform a consumer reporting agency (CRA) of the existence of a claim, but if the debtor disputes the claim by written notice, the collection agency must forward a copy of the dispute notice to the CRA.

A collection agency may not threaten a debtor with impairment of the debtor's credit rating if a claim is not paid.

Collection agencies are prohibited from communicating with a debtor in a way that harasses, intimidates, threatens, or embarrasses a debtor. Harassment is presumed if the collection agency:

- contacts a debtor or spouse in any form, manner, or place, 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 the debtor's place of residence between 9:00 p.m. and 7:30 a.m.

A collection agency may not threaten to take any action the collection agency cannot legally take at the time the threat is made.

A collection agency may not make collect phone calls or send collect telegrams.

Summary of Bill:

Prohibited Practices Under State Law.
Several changes are made to the prohibited practices of collection agencies.

Generally, a collection agency is not required to provide specific information required in notices to debtors when providing information to debtors through proper legal action, process, or proceedings. The information is required in if the notice is the first written communication with the debtor.

When a collection agency gives or sends a subsequent notice to a debtor and is attempting to collect a different amount than indicated in the first notice to the debtor, the collection agency is not required to itemize the different amount if the difference concerns a judgment against a debtor. Post-judgment interest, however, must be itemized if it is claimed. The current amount of the debt must be included in the notice.

If a collection agency informed a CRA of the existence of a claim and the debtor disputes the claim, the collection agency must provide the CRA with notice of the dispute by written or electronic means and create a record of the notification. The collection agency is no longer required to forward the debtor's written notice of the dispute.

If a collection agency informs a debtor that the agency has or will report the claim to a consumer reporting agency, it is not considered a threat if the agency actually has reported the claim or does intend to report the claim.

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

A call to a telephone is presumed to be received in the time zone for the area code of the number. If an area code is not assigned to any specific geographic area, the time zone is presumed to be the local time zone of the debtor's last known place of residence. The presumptions do not apply if the collection agency reasonably believes the telephone is located in a different time zone.

The prohibition on a collection agency causing charges to be incurred for a telegram or a telephone call does not preclude a collection agency from calling or texting a cellular phone or wireless device. A licensee is not allowed to attempt to communicate with a cellular phone or wireless device more than three times in a week. A collection agency may not call, text, or send an electronic message to a cellular phone or wireless device more than twice in a day. There are standards regarding when a licensee knows or reasonably should know that the number belongs to a cellular or wireless device. The provisions allowing a collection agency to call a cellular phone or wireless device do not increase the number of times a week a collection agency is allowed to contact a debtor or anyone else.

A collection agency may not bring an action or initiate arbitration on a claim when the collection agency knows, or reasonably should know, that the suit or arbitration is barred by the applicable statute of limitations.

A collection agency may not intentionally block its phone number from displaying on a telephone of a debtor.

Other.
A number of language changes, including gender-neutral changes, are made.

Appropriation: None.

Fiscal Note: Not requested.

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