

SENATE BILL REPORT

SSB 5574

As Passed Senate, March 1, 2011

Title: An act relating to collection agencies.

Brief Description: Concerning collection agencies.

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

Brief History:

Committee Activity: Judiciary: 2/16/11 [DPS].

Passed Senate: 3/01/11, 48-0.

SENATE COMMITTEE ON JUDICIARY

Majority Report: That Substitute Senate Bill No. 5574 be substituted therefor, and the substitute bill do pass.

Signed by Senators Kline, Chair; Harper, Vice Chair; Pflug, Ranking Minority Member; Baxter, Carrell, Hargrove, Regala and Roach.

Staff: Lidia Mori (786-7755)

Background: Collection agencies are prohibited from engaging in certain practices when attempting to collect debts. 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. Certain behaviors are presumed to be harassment, including:

- communicating with a debtor more than three times in a single week;
- communicating with a debtor at the debtor's place of employment more than one time in a single week; or
- communicating with a debtor or spouse at his or her 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;

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.

- interest or service charge, if any, added by the collection agency customer or assignor after it was received by the collection agency;
- collection 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
- 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 Substitute Bill: The prohibition that a collection agency cannot give or send to any debtor any notice, letter, message, or form which represents or implies that a claim exists without including certain information does not apply when it is through proper legal action, process, or proceedings. If the notice, letter, message, or form concerns a judgment against the debtor, no itemization of the amounts contained in the judgments is required, except postjudgment interest and the current account balance.

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 to the credit reporting bureau.

Advising a debtor that the collection agency has reported or intends to report a claim to a credit reporting agency (CRA) is not considered a threat if the collection agency has reported or intends to report the claim to a CRA.

If a collection agency communicates with a debtor or spouse more than three times in a single week and it is in response to a communication from the debtor or spouse, it is not presumed to be harassment. If a collection agency communicates with a debtor at his or her place of employment more than one time in a single week and it is in response to a communication from the debtor, it is not presumed to be harassment. 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.

A collection agency may attempt to communicate with a debtor by way of a cellular telephone, provided the agency cannot cause charges to be incurred to the recipient more than three times in any calendar week when the agency knows or reasonably should know that the number belongs to a cellular telephone, unless the agency is responding to a communication from the debtor. A collection agency does not violate this restriction if, at least monthly, it updates its records with information provided by a commercial provider of cellular telephone lists and the agency calls a number that does not appear in the most recent list provided by the commercial provider. Collection agencies are prohibited from calling or sending a text message to a cellular telephone more than twice a day when it knows or reasonably should know the number belongs to a cellular telephone, unless the agency is responding to a

communication from the debtor. The agency does not violate this restriction if it updates its records with information provided by a commercial provider of cellular telephone lists and the agency calls a number that does not appear in the most recent list provided by the commercial provider. Intentional blocking of an agency's telephone number by the agency when it calls a debtor's cellular telephone is prohibited.

It is prohibited to bring an action or initiate an arbitration proceeding on a claim when the collection agency knows or reasonably should know that the suit or arbitration is barred by an applicable statute of limitation.

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: This bill addresses issues within the Collection Agency Act (CAA). The stakeholders have been working on it for over a year, and reached an agreement just this morning. Updates the CAA to permit compliance under the act with some of the new technologies that didn't exist when the act was written, such as cell phones and new methods of credit reporting. This bill strikes a balance, allowing contacting of debtors with the new technology but also not allowing overuse and perhaps causing debtors to incur cost on their cell phones. This bill modernizes a law that's over thirty years old. It maintains consumers protections while maintaining creditors' remedies to collect.

OTHER: One thing that kept us from reaching agreement is the whole cell phone issue, for example, what constitutes a contact? How many times can a debtor be contacted on his or her cell phone or how many texts can be sent? If a debtor hangs up, is that a contact? Is that a communication or a contact? This bill provides clarity to consumers as well as collection agencies.

Persons Testifying: PRO: Kevin Underwood, David Grimm, Washington Collectors Association.

OTHER: Bruce Neas, Columbia Legal Services.