

FINAL BILL REPORT

SHB 1822

C 148 L 13
Synopsis as Enacted

Brief Description: Concerning debt collection practices.

Sponsors: House Committee on Judiciary (originally sponsored by Representative Stanford).

House Committee on Judiciary

House Committee on Appropriations Subcommittee on General Government

Senate Committee on Financial Institutions, Housing & Insurance

Background:

State and Federal Governing Laws.

Collection agencies are regulated by both state and federal law. Collection agencies are licensed by the Washington State Department of Licensing and are subject to the state Collection Agency Act (CAA). When collecting consumer debt, collection agencies must also comply with the federal Fair Debt Collection Practices Act (FDCPA). The CAA and FDCPA define collection agencies (called "debt collectors" under the FDCPA) as persons or entities directly or indirectly engaged in soliciting claims for collection, or collecting or attempting to collect claims owed or due or asserted to be owed or due another person. Also included in the definition are persons or entities collecting on their own behalf under another name, which would indicate to the debtor that a third person is attempting to collect the claim.

The CAA does not specifically address people or entities purchasing delinquent claims and taking action to collect on those claims. This practice is commonly referred to as "debt buying."

Prohibited Practices.

Both the CAA and the FDCPA permit and prohibit certain practices, and in general have similar provisions describing what is and is not allowed. Where there is an inconsistency, the FDCPA supersedes state law; however, a state law is not inconsistent with the FDCPA if it affords greater consumer protection than the FDCPA.

Examples of prohibited practices under both acts include publishing or threatening to publish "bad debt lists," purporting to be associated with law enforcement, failing to follow certain requirements in communications with debtors, and engaging in harassing or threatening

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tactics, among other things. The practice of law is listed as a prohibited practice for collection agencies under the CAA.

Summary:

Persons or entities engaged in the business of purchasing delinquent or charged-off debt for collection (debt buyers) are collection agencies for purposes of the CAA, even if the collection of those claims is performed by a third party or an attorney through litigation. Debt buyers must be licensed as collection agencies and comply with the other requirements of the CAA.

The list of prohibited practices in the CAA is amended to prohibit the "unauthorized" practice of law, rather than the practice of law in general.

Votes on Final Passage:

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| House | 97 | 0 |
| Senate | 48 | 0 |

Effective: July 28, 2013
October 1, 2013 (Sections 1 and 3)