

SENATE BILL REPORT

SHB 1822

As of March 28, 2013

Title: An act relating to debt collection practices.

Brief Description: Concerning debt collection practices.

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

Brief History: Passed House: 3/09/13, 97-0.

Committee Activity: Financial Institutions, Housing & Insurance: 3/26/13.

SENATE COMMITTEE ON FINANCIAL INSTITUTIONS, HOUSING & INSURANCE

Staff: Alison Mendiola (786-7483)

Background: Scope of Federal and State Governing Laws. Collection agencies are regulated by both state and federal law. Collection agencies are licensed by the Department of Licensing under the state Collection Agency Act (CAA), and are also subject to the federal Fair Debt Collection Practices Act (FDCPA) when collecting consumer debt. 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 to another person. Also included are those collecting on their own behalf under another name, which would indicate to the debtor that a third person is attempting to collect the claim.

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 CAA and FDCPA permit and prohibit certain practices, and in general have similar provisions as to what is and is not allowed. Where there is an inconsistency with state law, FDCPA supersedes state law; however, a state law is not inconsistent with FDCPA if it affords greater consumer protection than 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 tactics, among other things. The practice of law is listed as a prohibited practice for collection agencies under CAA.

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.

Summary of Bill: Persons or entities engaged in the business of purchasing delinquent or charged-off debt for collection – debt buyers – are collection agencies for purposes of 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 CAA.

The list of prohibited practices under CAA is amended to prohibit the unauthorized practice of law.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed, except for sections 1 and 3 which take effect October 1, 2013.

Staff Summary of Public Testimony: PRO: The stakeholders worked hard negotiating this issue and as a result this bill is supported by the stakeholders. This bill is the first step in many steps of putting more consumer protections on the issue of debt buying. This bill is a good bill that represents a small piece of a larger issue.

Persons Testifying: PRO: Representative Stanford, prime sponsor; Bruce Neas, Columbia Legal Services; Ray Henning, DBA International, WA Collectors Assn.; Greg Luhn, Kevin Underwood, WA Collectors Assn.