
HOUSE BILL 1822

State of Washington

63rd Legislature

2013 Regular Session

By Representative Stanford

Read first time 02/11/13. Referred to Committee on Judiciary.

1 AN ACT Relating to debt collection practices; amending RCW
2 19.16.100, 19.16.250, 19.16.260, 19.16.270, 19.16.450, 4.16.040,
3 4.16.270, 4.56.110, and 4.84.330; adding new sections to chapter 19.16
4 RCW; and prescribing penalties.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 **Sec. 1.** RCW 19.16.100 and 2003 c 203 s 1 are each amended to read
7 as follows:

8 Unless a different meaning is plainly required by the context, the
9 following words and phrases as hereinafter used in this chapter shall
10 have the following meanings:

11 (1) "Person" includes individual, firm, partnership, trust, joint
12 venture, association, or corporation.

13 (2) "Collection agency" means and includes:

14 (a) Any person directly or indirectly engaged in soliciting claims
15 for collection, or collecting or attempting to collect claims owed or
16 due or asserted to be owed or due another person;

17 (b) Any person who directly or indirectly furnishes or attempts to
18 furnish, sells, or offers to sell forms represented to be a collection
19 system or scheme intended or calculated to be used to collect claims

1 even though the forms direct the debtor to make payment to the creditor
2 and even though the forms may be or are actually used by the creditor
3 himself or herself in his or her own name;

4 (c) Any person who in attempting to collect or in collecting his or
5 her own claim uses a fictitious name or any name other than his or her
6 own which would indicate to the debtor that a third person is
7 collecting or attempting to collect such claim;

8 (d) A debt buyer. "Debt buyer" means a person or entity that is
9 engaged in the business of purchasing delinquent or charged-off
10 consumer loans or consumer credit accounts, or other delinquent
11 consumer debt for collection purposes, whether it collects the debt
12 itself or hires a third party for collection or an attorney for
13 litigation in order to collect such debt.

14 (3) "Collection agency" does not mean and does not include:

15 (a) Any individual engaged in soliciting claims for collection, or
16 collecting or attempting to collect claims on behalf of a licensee
17 under this chapter, if said individual is an employee of the licensee;

18 (b) Any individual collecting or attempting to collect claims for
19 not more than one employer, if all the collection efforts are carried
20 on in the name of the employer and if the individual is an employee of
21 the employer;

22 (c) Any person whose collection activities are carried on in his,
23 her, or its true name and are confined and are directly related to the
24 operation of a business other than that of a collection agency, such as
25 but not limited to: Trust companies; savings and loan associations;
26 building and loan associations; abstract companies doing an escrow
27 business; real estate brokers; property management companies collecting
28 assessments, charges, or fines on behalf of condominium unit owners
29 associations, associations of apartment owners, or homeowners'
30 associations; public officers acting in their official capacities;
31 persons acting under court order; lawyers; insurance companies; credit
32 unions; loan or finance companies; mortgage banks; and banks;

33 (d) Any person who on behalf of another person prepares or mails
34 monthly or periodic statements of accounts due if all payments are made
35 to that other person and no other collection efforts are made by the
36 person preparing the statements of account; or

37 ~~(e) ((An "out-of-state collection agency" as defined in this~~
38 ~~chapter; or~~

1 ~~(f))~~) Any person while acting as a debt collector for another
2 person, both of whom are related by common ownership or affiliated by
3 corporate control, if the person acting as a debt collector does so
4 only for persons to whom it is so related or affiliated and if the
5 principal business of the person is not the collection of debts.

6 ~~(4) ("Out of state collection agency" means a person whose~~
7 ~~activities within this state are limited to collecting debts from~~
8 ~~debtors located in this state by means of interstate communications,~~
9 ~~including telephone, mail, or facsimile transmission, from the person's~~
10 ~~location in another state on behalf of clients located outside of this~~
11 ~~state, but does not include any person who is excluded from the~~
12 ~~definition of the term "debt collector" under the federal fair debt~~
13 ~~collection practices act (15 U.S.C. Sec. 1692a(6)).~~

14 ~~(5))~~) "Claim" means any obligation for the payment of money or
15 thing of value arising out of any agreement or contract, express or
16 implied.

17 ~~((6))~~) (5) "Statement of account" means a report setting forth
18 only amounts billed, invoices, credits allowed, or aged balance due.

19 ~~((7))~~) (6) "Director" means the director of licensing.

20 ~~((8))~~) (7) "Client" or "customer" means any person authorizing or
21 employing a collection agency to collect a claim.

22 ~~((9))~~) (8) "Licensee" means any person licensed under this
23 chapter.

24 ~~((10))~~) (9) "Board" means the Washington state collection agency
25 board.

26 ~~((11))~~) (10) "Debtor" means any person owing or alleged to owe a
27 claim.

28 ~~((12))~~) (11) "Commercial claim" means any obligation for payment
29 of money or thing of value arising out of any agreement or contract,
30 express or implied, where the transaction which is the subject of the
31 agreement or contract is not primarily for personal, family, or
32 household purposes.

33 (12) "Consumer debt" means any obligation or alleged obligation of
34 a consumer to pay money arising out of a transaction in which the
35 money, property, insurance, or services which are the subject of the
36 transaction are primarily for personal, family, or household purposes,
37 whether or not such obligation has been reduced to judgment.

1 (13) "Original creditor" means the last entity to extend credit to
2 the consumer for the purchase of goods or services, for the lease of
3 goods, or as a loan of money. The original creditor must be identified
4 by the name that it used in its dealings with the consumer.

5 **NEW SECTION.** **Sec. 2.** A new section is added to chapter 19.16 RCW
6 to read as follows:

7 Whenever a payment is received by a licensee, including a debt
8 buyer, toward payment of a consumer debt, an original receipt or an
9 exact copy thereof must be furnished to the person from whom payment is
10 received within ten days of payment. Whenever demand is made by the
11 debtor, copies of all receipts demanded shall be furnished to the
12 debtor within ten days of receipt of demand. Copies of all receipts
13 issued pursuant to this section shall be kept by the licensee for four
14 years. All receipts issued must:

15 (1) State the name, street address, and licensee number of the
16 licensee;

17 (2) State the name of the creditor or creditors for whom collected;

18 (3) State the account number assigned by the creditor or creditors
19 for whom collected;

20 (4) If the creditor is not the original creditor, state the account
21 number assigned by the original creditor;

22 (5) State the amount of the original balance;

23 (6) State the amount and date paid;

24 (7) State the last name of the person accepting payment; and

25 (8) State clearly whether the payment is accepted as either payment
26 in full or as a full and final compromise of the debt. If any part of
27 the debt will be owing after the payment is made, the receipt must
28 state clearly and conspicuously the balance due after payment is
29 credited.

30 **Sec. 3.** RCW 19.16.250 and 2011 1st sp.s. c 29 s 2 are each amended
31 to read as follows:

32 No licensee or employee of a licensee shall:

33 (1) Directly or indirectly aid or abet any unlicensed person to
34 engage in business as a collection agency in this state or receive
35 compensation from such unlicensed person: PROVIDED, That nothing in

1 this chapter shall prevent a licensee from accepting, as forwarder,
2 claims for collection from a collection agency or attorney whose place
3 of business is outside the state.

4 (2) Collect or attempt to collect a claim by the use of any means
5 contrary to the postal laws and regulations of the United States postal
6 department.

7 (3) Publish or post or cause to be published or posted, any list of
8 debtors commonly known as "bad debt lists" or threaten to do so. For
9 purposes of this chapter, a "bad debt list" means any list of natural
10 persons alleged to fail to honor their lawful debts. However, nothing
11 herein shall be construed to prohibit a licensee from communicating to
12 its customers or clients by means of a coded list, the existence of a
13 check dishonored because of insufficient funds, not sufficient funds or
14 closed account by the financial institution servicing the debtor's
15 checking account: PROVIDED, That the debtor's identity is not readily
16 apparent: PROVIDED FURTHER, That the licensee complies with the
17 requirements of subsection (10)(e) of this section.

18 (4) Have in his or her possession or make use of any badge, use a
19 uniform of any law enforcement agency or any simulation thereof, or
20 make any statements which might be construed as indicating an official
21 connection with any federal, state, county, or city law enforcement
22 agency, or any other governmental agency, while engaged in collection
23 agency business.

24 (5) Perform any act or acts, either directly or indirectly,
25 constituting the practice of law.

26 (6) Advertise for sale or threaten to advertise for sale any claim
27 as a means of endeavoring to enforce payment thereof or agreeing to do
28 so for the purpose of soliciting claims, except where the licensee has
29 acquired claims as an assignee for the benefit of creditors or where
30 the licensee is acting under court order.

31 (7) Use any name while engaged in the making of a demand for any
32 claim other than the name set forth on his or her or its current
33 license issued hereunder.

34 (8) Give or send to any debtor or cause to be given or sent to any
35 debtor, any notice, letter, message, or form, other than through proper
36 legal action, process, or proceedings, which represents or implies that
37 a claim exists unless it shall indicate in clear and legible type:

1 (a) The name of the licensee and the city, street, and number at
2 which he or she is licensed to do business;

3 (b) The name of the original creditor to whom the debtor owed the
4 claim if such name is known to the licensee or employee: PROVIDED,
5 That upon written request of the debtor, the licensee shall provide
6 this name to the debtor or cease efforts to collect on the debt until
7 this information is provided;

8 (c) If the notice, letter, message, or form is the first notice to
9 the debtor or if the licensee is attempting to collect a different
10 amount than indicated in his or her or its first notice to the debtor,
11 an itemization of the claim asserted must be made including:

12 (i) Amount owing on the original obligation at the time it was
13 received by the licensee for collection or by assignment;

14 (ii) Interest or service charge, collection costs, or late payment
15 charges, if any, added to the original obligation by the original
16 creditor, customer or assignor before it was received by the licensee
17 for collection, if such information is known by the licensee or
18 employee: PROVIDED, That upon written request of the debtor, the
19 licensee shall make a reasonable effort to obtain information on such
20 items and provide this information to the debtor;

21 (iii) Interest or service charge, if any, added by the licensee or
22 customer or assignor after the obligation was received by the licensee
23 for collection;

24 (iv) Collection costs, if any, that the licensee is attempting to
25 collect;

26 (v) Attorneys' fees, if any, that the licensee is attempting to
27 collect on his or her or its behalf or on the behalf of a customer or
28 assignor; and

29 (vi) Any other charge or fee that the licensee is attempting to
30 collect on his or her or its own behalf or on the behalf of a customer
31 or assignor;

32 (d) If the notice, letter, message, or form concerns a judgment
33 obtained against the debtor, no itemization of the amounts contained in
34 the judgment is required, except postjudgment interest, if claimed, and
35 the current account balance;

36 (e) If the notice, letter, message, or form is the first notice to
37 the debtor, an itemization of the claim asserted must be made including
38 the following information:

1 (i) The original account number or redacted original account number
2 assigned to the debt, if known to the licensee or employee: PROVIDED,
3 That upon written request of the debtor, the licensee must make a
4 reasonable effort to obtain this information or cease efforts to
5 collect on the debt until this information is provided; and

6 (ii) The date of the last payment to the creditor on the subject
7 debt by the debtor, if known to the licensee or employee: PROVIDED,
8 That upon written request of the debtor, the licensee must make a
9 reasonable effort to obtain this information or cease efforts to
10 collect on the debt until this information is provided.

11 (9) Communicate in writing with a debtor concerning a claim through
12 a proper legal action, process, or proceeding, where such communication
13 is the first written communication with the debtor, without providing
14 the information set forth in subsection (8)(c) of this section in the
15 written communication.

16 (10) Communicate or threaten to communicate, the existence of a
17 claim to a person other than one who might be reasonably expected to be
18 liable on the claim in any manner other than through proper legal
19 action, process, or proceedings except under the following conditions:

20 (a) A licensee or employee of a licensee may inform a credit
21 reporting bureau of the existence of a claim. If the licensee or
22 employee of a licensee reports a claim to a credit reporting bureau,
23 the licensee shall, upon receipt of written notice from the debtor that
24 any part of the claim is disputed, notify the credit reporting bureau
25 of the dispute by written or electronic means and create a record of
26 the fact of the notification and when the notification was provided;

27 (b) A licensee or employee in collecting or attempting to collect
28 a claim may communicate the existence of a claim to a debtor's employer
29 if the claim has been reduced to a judgment;

30 (c) A licensee or employee in collecting or attempting to collect
31 a claim that has not been reduced to judgment, may communicate the
32 existence of a claim to a debtor's employer if:

33 (i) The licensee or employee has notified or attempted to notify
34 the debtor in writing at his or her last known address or place of
35 employment concerning the claim and the debtor after a reasonable time
36 has failed to pay the claim or has failed to agree to make payments on
37 the claim in a manner acceptable to the licensee, and

1 (ii) The debtor has not in writing to the licensee disputed any
2 part of the claim: PROVIDED, That the licensee or employee may only
3 communicate the existence of a claim which has not been reduced to
4 judgment to the debtor's employer once unless the debtor's employer has
5 agreed to additional communications.

6 (d) A licensee may for the purpose of locating the debtor or
7 locating assets of the debtor communicate the existence of a claim to
8 any person who might reasonably be expected to have knowledge of the
9 whereabouts of a debtor or the location of assets of the debtor if the
10 claim is reduced to judgment, or if not reduced to judgment, when:

11 (i) The licensee or employee has notified or attempted to notify
12 the debtor in writing at his or her last known address or last known
13 place of employment concerning the claim and the debtor after a
14 reasonable time has failed to pay the claim or has failed to agree to
15 make payments on the claim in a manner acceptable to the licensee, and

16 (ii) The debtor has not in writing disputed any part of the claim.

17 (e) A licensee may communicate the existence of a claim to its
18 customers or clients if the claim is reduced to judgment, or if not
19 reduced to judgment, when:

20 (i) The licensee has notified or attempted to notify the debtor in
21 writing at his or her last known address or last known place of
22 employment concerning the claim and the debtor after a reasonable time
23 has failed to pay the claim or has failed to agree to make payments on
24 the claim in a manner acceptable to the licensee, and

25 (ii) The debtor has not in writing disputed any part of the claim.

26 (11) Threaten the debtor with impairment of his or her credit
27 rating if a claim is not paid: PROVIDED, That advising a debtor that
28 the licensee has reported or intends to report a claim to a credit
29 reporting agency is not considered a threat if the licensee actually
30 has reported or intends to report the claim to a credit reporting
31 agency.

32 (12) Communicate with the debtor after notification in writing from
33 an attorney representing such debtor that all further communications
34 relative to a claim should be addressed to the attorney: PROVIDED,
35 That if a licensee requests in writing information from an attorney
36 regarding such claim and the attorney does not respond within a
37 reasonable time, the licensee may communicate directly with the debtor

1 until he or she or it again receives notification in writing that an
2 attorney is representing the debtor.

3 (13) Communicate with a debtor or anyone else in such a manner as
4 to harass, intimidate, threaten, or embarrass a debtor, including but
5 not limited to communication at an unreasonable hour, with unreasonable
6 frequency, by threats of force or violence, by threats of criminal
7 prosecution, and by use of offensive language. A communication shall
8 be presumed to have been made for the purposes of harassment if:

9 (a) It is made with a debtor or spouse in any form, manner, or
10 place, more than three times in a single week, unless the licensee is
11 responding to a communication from the debtor or spouse;

12 (b) It is made with a debtor at his or her place of employment more
13 than one time in a single week, unless the licensee is responding to a
14 communication from the debtor;

15 (c) It is made with the debtor or spouse at his or her place of
16 residence between the hours of 9:00 p.m. and 7:30 a.m. A call to a
17 telephone is presumed to be received in the local time zone to which
18 the area code of the number called is assigned for landline numbers,
19 unless the licensee reasonably believes the telephone is located in a
20 different time zone. If the area code is not assigned to landlines in
21 any specific geographic area, such as with toll-free telephone numbers,
22 a call to a telephone is presumed to be received in the local time zone
23 of the debtor's last known place of residence, unless the licensee
24 reasonably believes the telephone is located in a different time zone.

25 (14) Communicate with the debtor through use of forms or
26 instruments that simulate the form or appearance of judicial process,
27 the form or appearance of government documents, or the simulation of a
28 form or appearance of a telegraphic or emergency message.

29 (15) Communicate with the debtor and represent or imply that the
30 existing obligation of the debtor may be or has been increased by the
31 addition of attorney fees, investigation fees, service fees, or any
32 other fees or charges when in fact such fees or charges may not legally
33 be added to the existing obligation of such debtor.

34 (16) Threaten to take any action against the debtor which the
35 licensee cannot legally take at the time the threat is made.

36 (17) Send any telegram or make any telephone calls to a debtor or
37 concerning a debt or for the purpose of demanding payment of a claim or

1 seeking information about a debtor, for which the charges are payable
2 by the addressee or by the person to whom the call is made: PROVIDED,
3 That:

4 (a) This subsection does not prohibit a licensee from attempting to
5 communicate by way of a cellular telephone or other wireless device:
6 PROVIDED, That a licensee cannot cause charges to be incurred to the
7 recipient of the attempted communication more than three times in any
8 calendar week when the licensee knows or reasonably should know that
9 the number belongs to a cellular telephone or other wireless device,
10 unless the licensee is responding to a communication from the debtor or
11 the person to whom the call is made.

12 (b) The licensee is not in violation of (a) of this subsection if
13 the licensee at least monthly updates its records with information
14 provided by a commercial provider of cellular telephone lists that the
15 licensee in good faith believes provides reasonably current and
16 comprehensive data identifying cellular telephone numbers, calls a
17 number not appearing in the most recent list provided by the commercial
18 provider, and does not otherwise know or reasonably should know that
19 the number belongs to a cellular telephone.

20 (c) This subsection may not be construed to increase the number of
21 communications permitted pursuant to subsection (13)(a) of this
22 section.

23 (18) Call, or send a text message or other electronic communication
24 to, a cellular telephone or other wireless device more than twice in
25 any day when the licensee knows or reasonably should know that the
26 number belongs to a cellular telephone or other wireless device, unless
27 the licensee is responding to a communication from the debtor or the
28 person to whom the call, text message, or other electronic
29 communication is made. The licensee is not in violation of this
30 subsection if the licensee at least monthly updates its records with
31 information provided by a commercial provider of cellular telephone
32 lists that the licensee in good faith believes provides reasonably
33 current and comprehensive data identifying cellular telephone numbers,
34 calls a number not appearing in the most recent list provided by the
35 commercial provider, and does not otherwise know or reasonably should
36 know that the number belongs to a cellular telephone. Nothing in this
37 subsection may be construed to increase the number of communications
38 permitted pursuant to subsection (13)(a) of this section.

1 (19) Intentionally block its telephone number from displaying on a
2 debtor's telephone.

3 (20) In any manner convey the impression that the licensee is
4 vouched for, bonded to or by, or is an instrumentality of the state of
5 Washington or any agency or department thereof.

6 (21) Collect or attempt to collect in addition to the principal
7 amount of a claim any sum other than allowable interest, collection
8 costs or handling fees expressly authorized by statute, and, in the
9 case of suit, attorney's fees and taxable court costs. A licensee may
10 collect or attempt to collect collection costs and fees, including
11 contingent collection fees, as authorized by a written agreement or
12 contract, between the licensee's client and the debtor, in the
13 collection of a commercial claim. The amount charged to the debtor for
14 collection services shall not exceed thirty-five percent of the
15 commercial claim.

16 (22) Procure from a debtor or collect or attempt to collect on any
17 written note, contract, stipulation, promise or acknowledgment under
18 which a debtor may be required to pay any sum other than principal,
19 allowable interest, except as noted in subsection (21) of this section,
20 and, in the case of suit, attorney's fees and taxable court costs.

21 (23) Bring an action or initiate an arbitration proceeding on a
22 claim when the licensee knows, or reasonably should know, that such
23 suit or arbitration is barred by the applicable statute of limitations.

24 (24) Upon notification by a debtor that the debtor disputes all
25 debts arising from a series of dishonored checks, automated
26 clearinghouse transactions on a demand deposit account, or other
27 preprinted written instruments, initiate oral contact with a debtor
28 more than one time in an attempt to collect from the debtor debts
29 arising from the identified series of dishonored checks, automated
30 clearinghouse transactions on a demand deposit account, or other
31 preprinted written instruments when: (a) Within the previous one
32 hundred eighty days, in response to the licensee's attempt to collect
33 the initial debt assigned to the licensee and arising from the
34 identified series of dishonored checks, automated clearinghouse
35 transactions on a demand deposit account, or other preprinted written
36 instruments, the debtor in writing notified the licensee that the
37 debtor's checkbook or other series of preprinted written instruments
38 was stolen or fraudulently created; (b) the licensee has received from

1 the debtor a certified copy of a police report referencing the theft or
2 fraudulent creation of the checkbook, automated clearinghouse
3 transactions on a demand deposit account, or series of preprinted
4 written instruments; (c) in the written notification to the licensee or
5 in the police report, the debtor identified the financial institution
6 where the account was maintained, the account number, the magnetic ink
7 character recognition number, the full bank routing and transit number,
8 and the check numbers of the stolen checks, automated clearinghouse
9 transactions on a demand deposit account, or other preprinted written
10 instruments, which check numbers included the number of the check that
11 is the subject of the licensee's collection efforts; (d) the debtor
12 provides, or within the previous one hundred eighty days provided, to
13 the licensee a legible copy of a government-issued photo
14 identification, which contains the debtor's signature and which was
15 issued prior to the date of the theft or fraud identified in the police
16 report; and (e) the debtor advised the licensee that the subject debt
17 is disputed because the identified check, automated clearinghouse
18 transaction on a demand deposit account, or other preprinted written
19 instrument underlying the debt is a stolen or fraudulently created
20 check or instrument.

21 The licensee is not in violation of this subsection if the licensee
22 initiates oral contact with the debtor more than one time in an attempt
23 to collect debts arising from the identified series of dishonored
24 checks, automated clearinghouse transactions on a demand deposit
25 account, or other preprinted written instruments when: (i) The
26 licensee acted in good faith and relied on their established practices
27 and procedures for batching, recording, or packeting debtor accounts,
28 and the licensee inadvertently initiates oral contact with the debtor
29 in an attempt to collect debts in the identified series subsequent to
30 the initial debt assigned to the licensee; (ii) the licensee is
31 following up on collection of a debt assigned to the licensee, and the
32 debtor has previously requested more information from the licensee
33 regarding the subject debt; (iii) the debtor has notified the licensee
34 that the debtor disputes only some, but not all the debts arising from
35 the identified series of dishonored checks, automated clearinghouse
36 transactions on a demand deposit account, or other preprinted written
37 instruments, in which case the licensee shall be allowed to initiate
38 oral contact with the debtor one time for each debt arising from the

1 series of identified checks, automated clearinghouse transactions on a
2 demand deposit account, or written instruments and initiate additional
3 oral contact for those debts that the debtor acknowledges do not arise
4 from stolen or fraudulently created checks or written instruments; (iv)
5 the oral contact is in the context of a judicial, administrative,
6 arbitration, mediation, or similar proceeding; or (v) the oral contact
7 is made for the purpose of investigating, confirming, or authenticating
8 the information received from the debtor, to provide additional
9 information to the debtor, or to request additional information from
10 the debtor needed by the licensee to accurately record the debtor's
11 information in the licensee's records.

12 (25) Submit an affidavit or other request pursuant to chapter 6.32
13 RCW asking a superior or district court to transfer a bond posted by a
14 debtor subject to a money judgment to the licensee, when the debtor has
15 appeared as required.

16 (26) When the licensee is a debt buyer or acting on behalf of a
17 debt buyer, bring suit or initiate an arbitration proceeding against
18 the debtor or otherwise attempt to collect on a debt when the licensee
19 knows, or reasonably should know, that such collection is barred by the
20 applicable statute of limitations.

21 (27) When the licensee is a debt buyer or acting on behalf of a
22 debt buyer, bring suit or initiate an arbitration proceeding against
23 the debtor, or otherwise attempt to collect on the debt without (a)
24 proof that the debt buyer is the owner of the specific debt instrument
25 or account at issue and (b) verification of the amount of the debt
26 allegedly owed by the debtor. For purposes of this section,
27 verification must include documentation of the name of the original
28 creditor, the name and address of the debtor as appearing on the
29 original creditor's records, the original consumer account number, a
30 copy of the contract or other document evidencing the consumer debt,
31 and an itemized accounting of the amount claimed to be owed, including
32 all fees and charges.

33 (28) When the licensee is a debt buyer or acting on behalf of a
34 debt buyer, bring suit or initiate an arbitration proceeding against
35 the debtor to collect on a debt without first giving the debtor written
36 notice of the intent to file a legal action at least thirty days in
37 advance of filing. The written notice must include the name, address,
38 and telephone number of the debt buyer, the name of the original

1 creditor and the debtor's original account number, a copy of the
2 contract or other document evidencing the consumer debt, and an
3 itemized accounting of all amounts claimed to be owed.

4 (29) Seek a warrant for the arrest of a debtor for any action or
5 failure to act that arises or relates to a civil lawsuit, unless the
6 debtor has committed a violation of the criminal laws.

7 (30) Fail to comply with RCW 19.16.260, sections 5, 6, and 7 of
8 this act.

9 **Sec. 4.** RCW 19.16.260 and 2011 c 336 s 521 are each amended to
10 read as follows:

11 No collection agency (~~(or out of state collection agency)~~) may
12 bring or maintain an action in any court of this state involving the
13 collection of its own claim or a claim of any third party without
14 alleging and proving that he, she, or it is duly licensed under this
15 chapter and has satisfied the bonding requirements hereof, if
16 applicable(~~(: PROVIDED, That in any case where judgment is to be~~
17 ~~entered by default, it shall not be necessary for the collection agency~~
18 ~~or out of state collection agency to prove such matters))~~).

19 A copy of the current collection agency license (~~(or out of state~~
20 ~~collection agency license,~~) certified by the director to be a true and
21 correct copy of the original, shall be prima facie evidence of the
22 licensing and bonding of such collection agency (~~(or out of state~~
23 ~~collection agency)~~) as required by this chapter.

24 NEW SECTION. **Sec. 5.** A new section is added to chapter 19.16 RCW
25 to read as follows:

26 (1) In addition to the requirements of RCW 19.16.260, in any cause
27 of action initiated by a debt buyer, all of the following materials
28 must be attached to the complaint or claim:

29 (a) A copy of the contract or other writing evidencing the original
30 debt, which must contain a signature of the defendant. If a claim is
31 based on credit card debt and no such signed writing evidencing the
32 original debt ever existed then copies of documents generated when the
33 credit card was actually used must be attached;

34 (b) A copy of the assignment or other writing establishing that the
35 plaintiff is the owner of the debt. If the debt has been assigned more
36 than once, then each assignment or other writing evidencing the

1 transfer of ownership must be attached to establish an unbroken chain
2 of ownership. Each assignment or other writing evidencing transfer of
3 ownership must contain the original account number of the debt
4 purchased and must clearly show the debtor's name associated with that
5 account number; and

6 (c) An itemization of the amount sought, including:

7 (i) The amount owed for goods or services, for the lease of goods,
8 or the amount of credit extended;

9 (ii) Interest, fees, and charges imposed by the original creditor;

10 (iii) Interest, fees, and charges imposed by any debt buyer or
11 other assignee of the debt, if applicable;

12 (iv) Attorneys' fees;

13 (v) Any other fees, costs, or charges sought or imposed;

14 (vi) The amount and date of the last payment before default or
15 charge-off, whichever is earlier;

16 (vii) Each payment credited to the debt after default or
17 charge-off; and

18 (viii) The amount the debt buyer paid for the account.

19 (2) In any case involving consumer debt, if the defendant debtor
20 appears for trial on the scheduled trial date, and the plaintiff debt
21 buyer either fails to appear or is not prepared to proceed to trial,
22 and the court does not find good cause for continuance, judgment must
23 be entered for the debtor dismissing the action with prejudice.
24 Notwithstanding any other law, the court may award the defendant
25 debtor's costs and attorneys' fees, including lost wages and other
26 related expenses.

27 NEW SECTION. **Sec. 6.** A new section is added to chapter 19.16 RCW
28 to read as follows:

29 (1) Prior to entry of a judgment or order against a debtor in a
30 complaint initiated by a debt buyer, the plaintiff shall file:

31 (a) An authenticated copy of the contract or other writing
32 evidencing the original debt, which must contain a signature of the
33 defendant. If a claim is based on credit card debt and no such signed
34 writing evidencing the original debt ever existed, then authenticated
35 copies of documents generated when the credit card was actually used
36 must be attached;

1 (b) Evidence sufficient to establish the amount and nature of the
2 debt by business records that satisfy the requirements of RCW 5.45.020.

3 The evidence must include:

4 (i) The original creditor's name;

5 (ii) The original creditor's account number for the debtor;

6 (iii) The amount of the original debt;

7 (iv) An itemization of charges and fees claimed to be owed;

8 (v) The original charge-off balance, or, if the balance has not
9 been charged-off, an explanation of how the balance was calculated;

10 (vi) An itemization of post charge-off additions, where applicable;

11 (vii) The date of last payment;

12 (viii) The amount of interest claimed and the basis for the
13 interest charged;

14 (ix) The amount the debt buyer paid for the debtor's account; and

15 (x) A statement of the applicable statute of limitations period and
16 the filing date of the case;

17 (c) An affidavit containing a statement that the plaintiff debt
18 buyer is the sole current owner of the debt, which includes or is
19 accompanied by:

20 (i) A chronological listing of the names of all prior owners of the
21 debt and the date of each transfer of ownership of the debt, beginning
22 with the name of the original creditor; and

23 (ii) A contract of sale and exhibits that transferred ownership of
24 the debt to the plaintiff debt buyer;

25 (d) Evidence sufficient to establish an unbroken chain of ownership
26 interests by business records that satisfy the requirements of RCW
27 5.45.020. The evidence must include:

28 (i) An affidavit by the original creditor of the facts constituting
29 the debt, the default in payment, the sale or assignment of the debt,
30 authenticated contract of sale and exhibits, and the amount due at the
31 time of sale or assignment;

32 (ii) For each subsequent assignment or sale of the debt to another
33 entity, including an entity related by common ownership or affiliated
34 by corporate control, an affidavit authenticating the attached contract
35 of sale and exhibits of the debt by the debt seller, completed by the
36 seller or assignor; and

37 (iii) Proof that each assignment or other writing evidencing

1 transfer of ownership contains the original account number of the debt
2 purchased and must clearly show the debtor's name associated with that
3 account number; and

4 (e) An affidavit that states that the time period during which the
5 debt buyer may bring suit or initiate an arbitration proceeding to
6 collect the debt under the applicable statute of limitations, or any
7 extension of the time period available under the statute of
8 limitations, has not ended.

9 (2) In any action on a consumer debt, if a debt buyer seeks a
10 judgment or order against the debtor and has not complied with the
11 requirements of this section, the court may not enter a judgment for
12 the debt buyer and shall dismiss the action with prejudice.

13 (3) If the plaintiff is the prevailing party in any action to
14 collect a consumer debt, the plaintiff shall be entitled to interest on
15 the judgment at a maximum rate of interest equal to the weekly average
16 one-year constant maturity treasury yield, as published by the board of
17 governors of the federal reserve system, for the calendar week
18 preceding the date of the judgment. No other rate of interest on the
19 judgment may be permitted, including the rate provided for in the
20 contract.

21 NEW SECTION. **Sec. 7.** A new section is added to chapter 19.16 RCW
22 to read as follows:

23 (1) Any action by a debt buyer for the collection of a consumer
24 debt must be commenced within three years of the accrual of the cause
25 of action, which is the earlier of the date of charge-off, placement
26 for collection, or one hundred eighty days after the last regular
27 payment. This period applies whether the claim sounds in contract,
28 account stated, open account, or other cause, and notwithstanding the
29 provisions of any other statute of limitations unless that statute
30 provides for a shorter limitations period. This subsection applies to
31 all claims brought after the effective date of this section.

32 (2) Notwithstanding the provisions of any other law, if a consumer
33 debt has been charged-off, placed for collection, or there has not been
34 any payment on the debt for over one hundred eighty days, any
35 subsequent payment toward the debt does not extend the three-year
36 limitations period, nor does it bar the consumer from asserting any
37 defenses to the collection of a consumer debt.

1 (3) When the period within which an action may be commenced under
2 this section has expired, the right to collect the consumer debt is
3 extinguished as well as the remedy. No person may attempt to collect
4 a consumer debt after the three-year period described in subsection (1)
5 of this section has expired.

6 **Sec. 8.** RCW 19.16.270 and 2011 c 336 s 522 are each amended to
7 read as follows:

8 In any action brought by licensee, except for those actions brought
9 by debt buyers, to collect the claim of his, her, or its customer, the
10 assignment of the claim to licensee by his, her, or its customer shall
11 be conclusively presumed valid, if the assignment is filed in court
12 with the complaint, unless objection is made thereto by the debtor in
13 a written answer or in writing five days or more prior to trial.

14 **Sec. 9.** RCW 19.16.450 and 1971 ex.s. c 253 s 36 are each amended
15 to read as follows:

16 (1) If an act or practice in violation of RCW 19.16.250 is
17 committed by a licensee or an employee of a licensee in the collection
18 of a claim, neither the licensee, the customer of the licensee, nor any
19 other person who may thereafter legally seek to collect on such claim
20 shall ever be allowed to recover any interest, service charge,
21 attorneys' fees, collection costs, delinquency charge, or any other
22 fees or charges otherwise legally chargeable to the debtor on such
23 claim: PROVIDED, That any ((person)) licensee or an employee of a
24 licensee who is not a debt buyer or acting on behalf of a debt buyer
25 asserting the claim may nevertheless recover from the debtor the amount
26 of the original claim or obligation.

27 (2) Except as otherwise provided by this section, any debt buyer
28 who fails to comply with any provision of this chapter with respect to
29 any person is liable to such person as follows:

- 30 (a) Any actual damage sustained by such person;
- 31 (b) The amount established pursuant to either (b)(i) or (ii) of
32 this subsection:

33 (i) The case of any action by an individual, such civil penalties
34 as the court may allow, but not less than five hundred dollars per
35 violation and not more than five thousand dollars per violation.

1 (ii) In the case of a class action, the amount for each named
2 plaintiff as could be recovered under (b)(i) of this subsection, and an
3 amount as the court may determine for each other class member, not
4 exceeding the amount per person that could be recovered under (b)(i) of
5 this subsection.

6 (iii) In the case of any successful action to enforce the foregoing
7 liability, the costs of the action, together with a reasonable
8 attorneys' fees as determined by the court.

9 (3) In determining the amount of liability in any action against a
10 debt buyer under subsection (2)(b) of this section, the court shall
11 consider, among other relevant factors, the following:

12 (a) In any individual action, the frequency and persistence of
13 noncompliance by the debt buyer and the nature of the noncompliance;
14 and

15 (b) In any class action, the frequency and persistence of
16 noncompliance by the debt buyer, the nature of the noncompliance, the
17 resources of the debt buyer, and the number of persons adversely
18 affected.

19 **Sec. 10.** RCW 4.16.040 and 2012 c 185 s 3 are each amended to read
20 as follows:

21 The following actions shall be commenced within six years:

22 (1) An action upon a contract in writing, or liability express or
23 implied arising out of a written agreement, except as provided for in
24 RCW 64.04.007(2) and section 7 of this act.

25 (2) An action upon an account receivable. For purposes of this
26 section, an account receivable is any obligation for payment incurred
27 in the ordinary course of the claimant's business or profession,
28 whether arising from one or more transactions and whether or not earned
29 by performance.

30 (3) An action for the rents and profits or for the use and
31 occupation of real estate.

32 **Sec. 11.** RCW 4.16.270 and Code 1881 s 45 are each amended to read
33 as follows:

34 When any payment of principal or interest has been or shall be made
35 upon any existing contract, whether it be a bill of exchange,
36 promissory note, bond or other evidence of indebtedness, if such

1 payment be made after the same shall have become due, the limitation
2 shall commence from the time the last payment was made, except as
3 provided in section 7 of this act.

4 **Sec. 12.** RCW 4.56.110 and 2010 c 149 s 1 are each amended to read
5 as follows:

6 Interest on judgments shall accrue as follows:

7 (1) Except as provided for in section 6 of this act, judgments
8 founded on written contracts, providing for the payment of interest
9 until paid at a specified rate, shall bear interest at the rate
10 specified in the contracts: PROVIDED, That said interest rate is set
11 forth in the judgment.

12 (2) All judgments for unpaid child support that have accrued under
13 a superior court order or an order entered under the administrative
14 procedure act shall bear interest at the rate of twelve percent.

15 (3)(a) Judgments founded on the tortious conduct of a "public
16 agency" as defined in RCW 42.30.020 shall bear interest from the date
17 of entry at two percentage points above the equivalent coupon issue
18 yield, as published by the board of governors of the federal reserve
19 system, of the average bill rate for twenty-six week treasury bills as
20 determined at the first bill market auction conducted during the
21 calendar month immediately preceding the date of entry. In any case
22 where a court is directed on review to enter judgment on a verdict or
23 in any case where a judgment entered on a verdict is wholly or partly
24 affirmed on review, interest on the judgment or on that portion of the
25 judgment affirmed shall date back to and shall accrue from the date the
26 verdict was rendered.

27 (b) Except as provided in (a) of this subsection, judgments founded
28 on the tortious conduct of individuals or other entities, whether
29 acting in their personal or representative capacities, shall bear
30 interest from the date of entry at two percentage points above the
31 prime rate, as published by the board of governors of the federal
32 reserve system on the first business day of the calendar month
33 immediately preceding the date of entry. In any case where a court is
34 directed on review to enter judgment on a verdict or in any case where
35 a judgment entered on a verdict is wholly or partly affirmed on review,
36 interest on the judgment or on that portion of the judgment affirmed

1 shall date back to and shall accrue from the date the verdict was
2 rendered.

3 (4) Except as provided under subsections (1), (2), and (3) of this
4 section, judgments shall bear interest from the date of entry at the
5 maximum rate permitted under RCW 19.52.020 on the date of entry
6 thereof. In any case where a court is directed on review to enter
7 judgment on a verdict or in any case where a judgment entered on a
8 verdict is wholly or partly affirmed on review, interest on the
9 judgment or on that portion of the judgment affirmed shall date back to
10 and shall accrue from the date the verdict was rendered. The method
11 for determining an interest rate prescribed by this subsection is also
12 the method for determining the "rate applicable to civil judgments" for
13 purposes of RCW 10.82.090.

14 **Sec. 13.** RCW 4.84.330 and 2011 c 336 s 131 are each amended to
15 read as follows:

16 (1) In any action on a contract or lease entered into after
17 September 21, 1977, where such contract or lease specifically provides
18 that attorneys' fees and costs, which are incurred to enforce the
19 provisions of such contract or lease, shall be awarded to one of the
20 parties, the prevailing party, whether he or she is the party specified
21 in the contract or lease or not, shall be entitled to reasonable
22 attorneys' fees in addition to costs and necessary disbursements.

23 (2) Attorneys' fees provided for by this section shall not be
24 subject to waiver by the parties to any contract or lease which is
25 entered into after September 21, 1977. Any provision in any such
26 contract or lease which provides for a waiver of attorneys' fees is
27 void.

28 (3) If the attorneys' fees are for services rendered to an assignee
29 or a debt buyer, as defined in RCW 19.16.100, all of the following
30 materials setting forth a party's obligation to pay attorneys' fees
31 must be provided to the court before a court may enforce those
32 provisions:

33 (a) A copy of the contract or other writing evidencing the original
34 debt, which must contain a signature of the defendant. If a claim is
35 based on credit card debt and no such signed writing evidencing the
36 original debt ever existed, then copies of documents generated when the
37 credit card was actually used must be attached.

1 (b) A copy of the assignment or other writing establishing that the
2 plaintiff is the owner of the debt. If the debt has been assigned more
3 than once, then each assignment or other writing evidencing transfer of
4 ownership must be attached to establish an unbroken chain of ownership.
5 Each assignment or other writing evidencing transfer of ownership must
6 contain the original account number of the debt purchased and must
7 clearly show the debtor's name associated with that account number.

8 (4) As used in this section "prevailing party" means the party in
9 whose favor final judgment is rendered.

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