

SHB 1503 - S COMM AMD

By Committee on Law & Justice

ADOPTED 4/15/2015

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 60.44.020 and 1975 1st ex.s. c 250 s 2 are each
4 amended to read as follows:

5 No person shall be entitled to the lien given by RCW 60.44.010
6 unless such person (~~shall~~):

7 (1) In any effort to enforce the lien, either attempts to enforce
8 the lien on his or her own behalf or designates a collection agency
9 licensed under chapter 19.16 RCW to collect on his or her behalf;

10 (2) Discloses the person's use of liens under this chapter as
11 part of the person's billing and collection practices; and

12 (3) Within twenty days after the date of such injury or receipt
13 of transportation or care, or, if settlement has not been
14 accomplished and payment made to such injured person, then at any
15 time before such settlement and payment, files for record with the
16 county auditor of the county in which said service was performed, a
17 notice of claim stating the name and address of the person claiming
18 the lien and whether such person claims as a practitioner, physician,
19 nurse, ambulance service, or hospital, the name and address of the
20 patient and place of domicile or residence, the time when and place
21 where the alleged fault or negligence of the tort-feasor occurred,
22 and the nature of the injury if any, the name and address of the
23 tort-feasor, if same or any thereof are known, which claim shall be
24 subscribed by the claimant and verified before a person authorized to
25 administer oaths.

26 **Sec. 2.** RCW 60.44.060 and 2012 c 117 s 153 are each amended to
27 read as follows:

28 (1) Such lien may be enforced by a suit at law brought by the
29 claimant or his or her assignee within one year after the filing of
30 such lien against the said tort feasor and/or insurer. In the event
31 that such tort feasor and/or insurer shall have made payment or
32 settlement on account of such injury, the fact of such payment shall

1 only for the purpose of such suit be prima facie evidence of the
2 negligence of the tort feisor and of the liability of the payer to
3 compensate for such negligence.

4 (2) No more than thirty days after payment or settlement and
5 acceptance of the amount due to the claimant or his or her assignee,
6 the claimant or his or her assignee shall prepare and execute a
7 release of all lien rights for which payment has been made and
8 deliver the release to the patient. In any suit to compel deliverance
9 of the release thereafter in which the court determines the delay was
10 unjustified, the court shall, in addition to ordering the deliverance
11 of the release, award the costs of the action including reasonable
12 attorneys' fees and any damages.

13 **Sec. 3.** RCW 19.16.100 and 2013 c 148 s 1 are each reenacted and
14 amended to read as follows:

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

18 (1) "Board" means the Washington state collection agency board.

19 (2) "Claim" means any obligation for the payment of money or
20 thing of value arising out of any agreement or contract, express or
21 implied.

22 (3) "Client" or "customer" means any person authorizing or
23 employing a collection agency to collect a claim.

24 (4) "Collection agency" means and includes:

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

28 (b) Any person who directly or indirectly furnishes or attempts
29 to furnish, sells, or offers to sell forms represented to be a
30 collection system or scheme intended or calculated to be used to
31 collect claims even though the forms direct the debtor to make
32 payment to the creditor and even though the forms may be or are
33 actually used by the creditor himself or herself in his or her own
34 name;

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

1 (d) Any person or entity that is engaged in the business of
2 purchasing delinquent or charged off claims for collection purposes,
3 whether it collects the claims itself or hires a third party for
4 collection or an attorney for litigation in order to collect such
5 claims;

6 (e) Any person or entity attempting to enforce a lien under
7 chapter 60.44 RCW, other than the person or entity originally
8 entitled to the lien.

9 (5) "Collection agency" does not mean and does not include:

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

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

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

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

34 (e) An "out-of-state collection agency" as defined in this
35 chapter; or

36 (f) Any person while acting as a debt collector for another
37 person, both of whom are related by common ownership or affiliated by
38 corporate control, if the person acting as a debt collector does so
39 only for persons to whom it is so related or affiliated and if the
40 principal business of the person is not the collection of debts.

1 (6) "Commercial claim" means any obligation for payment of money
2 or thing of value arising out of any agreement or contract, express
3 or implied, where the transaction which is the subject of the
4 agreement or contract is not primarily for personal, family, or
5 household purposes.

6 (7) "Debtor" means any person owing or alleged to owe a claim.

7 (8) "Director" means the director of licensing.

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

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

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

19 (12) "Statement of account" means a report setting forth only
20 amounts billed, invoices, credits allowed, or aged balance due."

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21 On page 1, line 1 of the title, after "liens;" strike the
22 remainder of the title and insert "amending RCW 60.44.020 and
23 60.44.060; and reenacting and amending RCW 19.16.100."

EFFECT: The claimant must execute and deliver a release of lien
rights no more than 30 days after settlement, acceptance, or payment
of the lien.

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