

SSB 5222 - S AMD 623
By Senator Nelson

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1 Beginning on page 3, line 32, strike all of section 2 and insert
2 the following:

3 "Sec. 2. RCW 19.16.250 and 2013 c 148 s 2 are each amended to
4 read as follows:

5 No licensee or employee of a licensee shall:

6 (1) Directly or indirectly aid or abet any unlicensed person to
7 engage in business as a collection agency in this state or receive
8 compensation from such unlicensed person: PROVIDED, That nothing in
9 this chapter shall prevent a licensee from accepting, as forwarder,
10 claims for collection from a collection agency or attorney whose
11 place of business is outside the state.

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

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

26 (4) Have in his or her possession or make use of any badge, use a
27 uniform of any law enforcement agency or any simulation thereof, or
28 make any statements which might be construed as indicating an
29 official connection with any federal, state, county, or city law
30 enforcement agency, or any other governmental agency, while engaged
31 in collection agency business.

1 (5) Perform any act or acts, either directly or indirectly,
2 constituting the unauthorized practice of law.

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

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

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

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

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

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

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

29 (ii) Interest or service charge, collection costs, or late
30 payment charges, if any, added to the original obligation by the
31 original creditor, customer or assignor before it was received by the
32 licensee for collection, if such information is known by the licensee
33 or employee: PROVIDED, That upon written request of the debtor, the
34 licensee shall make a reasonable effort to obtain information on such
35 items and provide this information to the debtor;

36 (iii) Interest or service charge, if any, added by the licensee
37 or customer or assignor after the obligation was received by the
38 licensee for collection;

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

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

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

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

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

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

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

24 (9) Communicate in writing with a debtor concerning a claim
25 through a proper legal action, process, or proceeding, where such
26 communication is the first written communication with the debtor,
27 without providing the information set forth in subsection (8)(c) of
28 this section in the written communication.

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

34 (a) A licensee or employee of a licensee may inform a credit
35 reporting bureau of the existence of a claim. If the licensee or
36 employee of a licensee reports a claim to a credit reporting bureau,
37 the licensee shall, upon receipt of written notice from the debtor
38 that any part of the claim is disputed, notify the credit reporting
39 bureau of the dispute by written or electronic means and create a

1 record of the fact of the notification and when the notification was
2 provided;

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

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

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

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

19 (d) A licensee may for the purpose of locating the debtor or
20 locating assets of the debtor communicate the existence of a claim to
21 any person who might reasonably be expected to have knowledge of the
22 whereabouts of a debtor or the location of assets of the debtor if
23 the claim is reduced to judgment, or if not reduced to judgment,
24 when:

25 (i) The licensee or employee has notified or attempted to notify
26 the debtor in writing at his or her last known address or last known
27 place of employment concerning the claim and the debtor after a
28 reasonable time has failed to pay the claim or has failed to agree to
29 make payments on the claim in a manner acceptable to the licensee,
30 and

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

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

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

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

3 (11) Threaten the debtor with impairment of his or her credit
4 rating if a claim is not paid: PROVIDED, That advising a debtor that
5 the licensee has reported or intends to report a claim to a credit
6 reporting agency is not considered a threat if the licensee actually
7 has reported or intends to report the claim to a credit reporting
8 agency.

9 (12) Communicate with the debtor after notification in writing
10 from an attorney representing such debtor that all further
11 communications relative to a claim should be addressed to the
12 attorney: PROVIDED, That if a licensee requests in writing
13 information from an attorney regarding such claim and the attorney
14 does not respond within a reasonable time, the licensee may
15 communicate directly with the debtor until he or she or it again
16 receives notification in writing that an attorney is representing the
17 debtor.

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

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

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

31 (c) It is made with the debtor or spouse at his or her place of
32 residence between the hours of 9:00 p.m. and 7:30 a.m. A call to a
33 telephone is presumed to be received in the local time zone to which
34 the area code of the number called is assigned for landline numbers,
35 unless the licensee reasonably believes the telephone is located in a
36 different time zone. If the area code is not assigned to landlines in
37 any specific geographic area, such as with toll-free telephone
38 numbers, a call to a telephone is presumed to be received in the
39 local time zone of the debtor's last known place of residence, unless

1 the licensee reasonably believes the telephone is located in a
2 different time zone.

3 (14) Communicate with the debtor through use of forms or
4 instruments that simulate the form or appearance of judicial process,
5 the form or appearance of government documents, or the simulation of
6 a form or appearance of a telegraphic or emergency message.

7 (15) Communicate with the debtor and represent or imply that the
8 existing obligation of the debtor may be or has been increased by the
9 addition of attorney fees, investigation fees, service fees, or any
10 other fees or charges when in fact such fees or charges may not
11 legally be added to the existing obligation of such debtor.

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

14 (17) Send any telegram or make any telephone calls to a debtor or
15 concerning a debt or for the purpose of demanding payment of a claim
16 or seeking information about a debtor, for which the charges are
17 payable by the addressee or by the person to whom the call is made:
18 PROVIDED, That:

19 (a) This subsection does not prohibit a licensee from attempting
20 to communicate by way of a cellular telephone or other wireless
21 device: PROVIDED, That a licensee cannot cause charges to be incurred
22 to the recipient of the attempted communication more than three times
23 in any calendar week when the licensee knows or reasonably should
24 know that the number belongs to a cellular telephone or other
25 wireless device, unless the licensee is responding to a communication
26 from the debtor or the person to whom the call is made.

27 (b) The licensee is not in violation of (a) of this subsection if
28 the licensee at least monthly updates its records with information
29 provided by a commercial provider of cellular telephone lists that
30 the licensee in good faith believes provides reasonably current and
31 comprehensive data identifying cellular telephone numbers, calls a
32 number not appearing in the most recent list provided by the
33 commercial provider, and does not otherwise know or reasonably should
34 know that the number belongs to a cellular telephone.

35 (c) This subsection may not be construed to increase the number
36 of communications permitted pursuant to subsection (13)(a) of this
37 section.

38 (18) Call, or send a text message or other electronic
39 communication to, a cellular telephone or other wireless device more
40 than twice in any day when the licensee knows or reasonably should

1 know that the number belongs to a cellular telephone or other
2 wireless device, unless the licensee is responding to a communication
3 from the debtor or the person to whom the call, text message, or
4 other electronic communication is made. The licensee is not in
5 violation of this subsection if the licensee at least monthly updates
6 its records with information provided by a commercial provider of
7 cellular telephone lists that the licensee in good faith believes
8 provides reasonably current and comprehensive data identifying
9 cellular telephone numbers, calls a number not appearing in the most
10 recent list provided by the commercial provider, and does not
11 otherwise know or reasonably should know that the number belongs to a
12 cellular telephone. Nothing in this subsection may be construed to
13 increase the number of communications permitted pursuant to
14 subsection (13)(a) of this section.

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

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

20 (21) Collect or attempt to collect in addition to the principal
21 amount of a claim any sum other than allowable interest, collection
22 costs or handling fees expressly authorized by statute, and, in the
23 case of suit, attorney's fees and taxable court costs. A licensee may
24 collect or attempt to collect collection costs and fees, including
25 contingent collection fees, as authorized by a written agreement or
26 contract, between the licensee's client and the debtor, in the
27 collection of a commercial claim. The amount charged to the debtor
28 for collection services shall not exceed thirty-five percent of the
29 commercial claim.

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

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

1 (24) Upon notification by a debtor that the debtor disputes all
2 debts arising from a series of dishonored checks, automated
3 clearinghouse transactions on a demand deposit account, or other
4 preprinted written instruments, initiate oral contact with a debtor
5 more than one time in an attempt to collect from the debtor debts
6 arising from the identified series of dishonored checks, automated
7 clearinghouse transactions on a demand deposit account, or other
8 preprinted written instruments when: (a) Within the previous one
9 hundred eighty days, in response to the licensee's attempt to collect
10 the initial debt assigned to the licensee and arising from the
11 identified series of dishonored checks, automated clearinghouse
12 transactions on a demand deposit account, or other preprinted written
13 instruments, the debtor in writing notified the licensee that the
14 debtor's checkbook or other series of preprinted written instruments
15 was stolen or fraudulently created; (b) the licensee has received
16 from the debtor a certified copy of a police report referencing the
17 theft or fraudulent creation of the checkbook, automated
18 clearinghouse transactions on a demand deposit account, or series of
19 preprinted written instruments; (c) in the written notification to
20 the licensee or in the police report, the debtor identified the
21 financial institution where the account was maintained, the account
22 number, the magnetic ink character recognition number, the full bank
23 routing and transit number, and the check numbers of the stolen
24 checks, automated clearinghouse transactions on a demand deposit
25 account, or other preprinted written instruments, which check numbers
26 included the number of the check that is the subject of the
27 licensee's collection efforts; (d) the debtor provides, or within the
28 previous one hundred eighty days provided, to the licensee a legible
29 copy of a government-issued photo identification, which contains the
30 debtor's signature and which was issued prior to the date of the
31 theft or fraud identified in the police report; and (e) the debtor
32 advised the licensee that the subject debt is disputed because the
33 identified check, automated clearinghouse transaction on a demand
34 deposit account, or other preprinted written instrument underlying
35 the debt is a stolen or fraudulently created check or instrument.

36 The licensee is not in violation of this subsection if the
37 licensee initiates oral contact with the debtor more than one time in
38 an attempt to collect debts arising from the identified series of
39 dishonored checks, automated clearinghouse transactions on a demand
40 deposit account, or other preprinted written instruments when: (i)

1 The licensee acted in good faith and relied on their established
2 practices and procedures for batching, recording, or packeting debtor
3 accounts, and the licensee inadvertently initiates oral contact with
4 the debtor in an attempt to collect debts in the identified series
5 subsequent to the initial debt assigned to the licensee; (ii) the
6 licensee is following up on collection of a debt assigned to the
7 licensee, and the debtor has previously requested more information
8 from the licensee regarding the subject debt; (iii) the debtor has
9 notified the licensee that the debtor disputes only some, but not all
10 the debts arising from the identified series of dishonored checks,
11 automated clearinghouse transactions on a demand deposit account, or
12 other preprinted written instruments, in which case the licensee
13 shall be allowed to initiate oral contact with the debtor one time
14 for each debt arising from the series of identified checks, automated
15 clearinghouse transactions on a demand deposit account, or written
16 instruments and initiate additional oral contact for those debts that
17 the debtor acknowledges do not arise from stolen or fraudulently
18 created checks or written instruments; (iv) the oral contact is in
19 the context of a judicial, administrative, arbitration, mediation, or
20 similar proceeding; or (v) the oral contact is made for the purpose
21 of investigating, confirming, or authenticating the information
22 received from the debtor, to provide additional information to the
23 debtor, or to request additional information from the debtor needed
24 by the licensee to accurately record the debtor's information in the
25 licensee's records.

26 (25) Submit an affidavit or other request pursuant to chapter
27 6.32 RCW asking a superior or district court to transfer a bond
28 posted by a debtor subject to a money judgment to the licensee, when
29 the debtor has appeared as required.

30 (26) Serve the debtor with a summons and complaint unless the
31 pleadings have been filed with the court and the summons and
32 complaint contain a file number and sufficient information to allow
33 the debtor to file an answer with the court."

EFFECT: Prohibits a licensee from serving a debtor with a summons
and complaint unless the pleadings have been filed with the court and
the summons and complaint contain a file number and sufficient
information to allow the debtor to file an answer with the court.

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