

SENATE BILL REPORT

SB 5043

As of January 24, 2017

Title: An act relating to collection agency transaction fees for processing electronic payments.

Brief Description: Concerning collection agency transaction fees for processing electronic payments.

Sponsors: Senators Angel, Mullet and Hobbs.

Brief History:

Committee Activity: Financial Institutions & Insurance: 1/19/17.

<p>Brief Summary of Bill</p> <ul style="list-style-type: none">• Authorizes collection agencies to collect a transaction fee, not exceeding 2 percent, for credit card payments from debtors.
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SENATE COMMITTEE ON FINANCIAL INSTITUTIONS & INSURANCE

Staff: Jeff Olsen (786-7428)

Background: Collection agencies are regulated by both state and federal law under Washington's Collection Agency Act (CAA) and the federal Fair Debt Collection Practices Act (FDCPA). Collection agencies are licensed by the Department of Licensing. Under CAA, collection agencies generally include those who solicit claims for collection, furnish or sell forms representing a collection system, use another name when collecting which indicates to the debtor that a third person is attempting to collect the claim, or purchase delinquent or charged-off claims for collection purposes.

Under the CAA, collection agencies may not collect any sum beyond the principal amount of the debt owed other than allowable interest, expressly allowed collection costs or handling fees, or attorneys' fees and court costs. Exceptions are made for collection costs and fees in commercial claims.

Summary of Bill: Collection agencies may collect transaction fees for credit card payments in an amount not to exceed two percent of the payment amount. The agency must also offer a no-cost option to the debtor and must disclose the option to the debtor at the same time and

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in the same manner as the debtor's credit card information is taken. A credit card payment is defined to mean any payment made by a payment card that incurs a credit card interchange fee, regardless of the type of payment card used.

Appropriation: None.

Fiscal Note: Not requested.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: With changes in technology, times have changed and customers demand more options and convenience. A majority of consumers want to pay their bill with a payment card. The debt collection industry is restricted from adding a transaction fee, and would like to be able to offer the option to those that want to pay with a credit card. Industry gets a contingency fee on the collection of debt, and card payment fees may take nearly 25 percent of the revenues earned by the collection agency. Other public agencies offer the option to their customers to use a credit card for payments with a convenience fee, and the debt collection industry would like that same option.

CON: The ability for debt collectors to charge an additional 2 percent fee, on top of 12 percent judgement fees, would negatively impact all debtors. Paying off debt with a credit card just creates a cycle of debt. Debt is more likely in communities with higher populations of minorities, uninsured populations, and lower educational attainment and income levels. Many people with debt problems have experienced a medical emergency and have medical debt. The bill would negatively impact already vulnerable individuals that are unable to pay off their legal financial obligations. There should be an exemption for individuals that are paying off their court debt. Additional fees would increase the number of individuals that may need to file for bankruptcy, rather than being able to continue to pay off their debts. The bill allows debt collectors to charge the two percent fee on credit cards, debit cards, and other types of electronic payment cards.

OTHER: The definition of credit card payment is fairly broad and captures other types of payment cards, and it should be modified to match an existing definition of credit card that is already in statute.

Persons Testifying: PRO: Kelsi Hamilton, WA Collectors Association; David Fagan, Washington Collectors Association.

CON: Elisabeth Smith, ACLU of Washington; Eric Gonzalez, Washington State Labor Council AFL-CIO; Christina Henry, National Association of Consumer Advocates; Joshua Turnham, citizen; Rolando Avila, Statewide Poverty Action Network; Ellicott Dandy, OneAmerica; Lili Sotelo, Columbia Legal Services; Xochitl Maykovich, Washington Community Action Network / Political O.

OTHER: Cindi Holmstrom, Washington Bankers Association.

Persons Signed In To Testify But Not Testifying: No one.