

# FINAL BILL REPORT

## HB 1066

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Synopsis as Enacted

**Brief Description:** Requiring debt collection complaints to be filed prior to service of summons and complaint.

**Sponsors:** Representatives Kilduff, Valdez, Orwall, Jinkins, Ryu, Bergquist, Stanford, Leavitt, Walen and Young; by request of Attorney General.

**House Committee on Civil Rights & Judiciary**  
**Senate Committee on Law & Justice**

### **Background:**

#### Collection Agencies.

At the state level, debt collection agencies are regulated by the Collection Agency Act (CAA). The CAA creates a licensing system for collection agencies, establishes a regulatory board, sets forth prohibited practices, and provides remedies. Generally, a collection agency includes any person or business collecting claims owed to another person or business.

No person or business may act as a collection agency without first acquiring a license from the Department of Licensing (DOL). The DOL may deny, revoke, not renew, or suspend licenses for reasons related to conduct, financial circumstances, and noncompliance with the law.

The CAA sets forth a number of prohibited practices. For example, collection agencies may not:

- contact a debtor with excessive frequency or at an unreasonable hour;
- publish an individual's debt or share the amount due with a third party; or
- misrepresent themselves when communicating with a debtor.

Violations of these prohibited practices are unfair and deceptive trade practices under the Consumer Protection Act (CPA). Individual debtors may file complaints with the Collection Agency Regulatory Board or with the Attorney General. Individuals may also bring civil suits against collection agencies for alleged violations of the CAA for injunctive relief and damages.

#### Commencement of an Action.

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*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.*

Washington's court system is comprised of multiple types of courts. Superior courts are courts of general jurisdiction. District and municipal courts are courts of limited jurisdiction. District courts may hear civil suits in which the value of the claim or amount at issue does not exceed \$100,000. The small claims department within each district court has jurisdictions in cases for the recovery of money up to \$5,000.

Washington Superior Court Civil Rule 3 provides that a plaintiff may commence an action in superior court by either filing the complaint with the court or serving the defendant with a summons and copy of the complaint. A defendant served with a summons and complaint that has not yet been filed with the court may demand the plaintiff file the lawsuit with the court. If demanded, failure to file the lawsuit with the court within 14 days will result in the service being void.

To commence an action in a court of limited jurisdiction, Washington Civil Rules for Courts of Limited Jurisdiction Rule 3 requires that a plaintiff file the complaint with the court. The plaintiff may then serve the defendant with a summons and copy of the complaint.

Regardless of the court in which an action is brought, a defendant served with a summons and complaint must respond with his or her defense within the number of days specified in court rule. Failure to respond to service in a timely manner may result in a default judgement against the defendant.

**Summary:**

It is a prohibited practice under the Collection Agency Act for a collection agency to serve a debtor with a summons and complaint unless the summons and complaint have been filed with the court and bear the case number assigned by the court.

**Votes on Final Passage:**

House	59	37
Senate	31	17

**Effective:** July 28, 2019