

# SENATE BILL REPORT

## SHB 2476

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As of February 19, 2020

**Title:** An act relating to debt buyers.

**Brief Description:** Concerning debt buyers.

**Sponsors:** House Committee on Civil Rights & Judiciary (originally sponsored by Representatives Walen, Duerr, Kloba, Kilduff, Leavitt, Lekanoff, Orwall, Davis, Doglio, Frame, Macri, Goodman and Ormsby).

**Brief History:** Passed House: 2/12/20, 96-0.

**Committee Activity:** Law & Justice: 2/19/20.

### Brief Summary of Bill

- Prescribes prohibited practices for a collection agency operating as a debt buyer.
- Designates prohibited practices of a debt buyer as unfair practices under the Consumer Protection Act.

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### SENATE COMMITTEE ON LAW & JUSTICE

**Staff:** Shani Bauer (786-7468)

**Background:** In Washington, 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 requirements and prohibited practices, and provides remedies. Collection agency means and includes:

- any person directly or indirectly engaged in soliciting claims for collection, or collecting or attempting to collect claims owed or due or asserted to be owed or due another person;
- any person who directly or indirectly furnishes or attempts to furnish, sells, or offers to sell forms represented to be a collection system or scheme intended or calculated to be used to collect claims;
- any person who in attempting to collect or in collecting their own claim uses a fictitious name or any name other than their own which would indicate to the debtor that a third person is collecting or attempting to collect such a claim;

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- any person or entity that is engaged in the business of purchasing delinquent or charged off claims for collection purposes, whether it collects the claims itself or hires a third party for collection or an attorney for litigation in order to collect such claims; and
- any person or entity attempting to enforce a lien under the statutory chapter specific to the liens of doctors, nurses, hospitals, and ambulance services.

No person or business may act as a collection agency without first acquiring a license from the Department of Licensing (DOL). 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, such as 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.

The operation of a collection agency without a license or engaging in a prohibited practice is an unfair practice under the Washington Consumer Protection Act. If a prohibited practice is committed by a licensee in the collection of a claim, no interest, collection costs, or delinquency fees over and above the original claim may be collected.

**Summary of Bill:** A debt buyer is included in the definition of a collection agency and the term is independently defined as any person or entity engaged in the business of purchasing delinquent or charged off claims for collection purposes, whether it collects the claims itself or hires a third party for collection or an attorney for litigation in order to collect the debt.

Additionally, a debt buyer may not:

- bring any legal action against a debtor without attaching a copy of the contract or other records evidencing the debt to the complaint;
- request a default judgment without providing evidence to the court establishing the amount and nature of the debt, including a full statement of the account and a copy of the assignment or other writing establishing the debt buyer is the owner of the debt; and
- bring any legal action without providing the following disclosures:
  - the action is brought by or for the benefit of a person or entity engaged in the business of purchasing delinquent or charged off claims for collection;
  - the date the obligation was purchased;
  - the person or entity from whom the obligation was purchased;
  - that the plaintiff may have purchased the obligation for less than the value stated in the complaint;
  - if the obligation was sold without any representation or warranty of accuracy, a statement to that effect; and
  - that the action is not barred by the statute of limitations.

Engaging in a prohibited practice as outlined for a debt buyer is an unfair practice under the Washington Consumer Protection Act. If a prohibited practice is committed by a licensee in the collection of a purchased obligation, no interest, collection costs, or delinquency fees over and above the original claim may be collected.

This act applies prospectively to delinquent or charged off claims purchased by a debt buyer on or after the effective date of this section.

**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: When a creditor is unable to collect debt, one option is to sell that debt to a debt buyer. As time goes on, the origin, timing, and payments all gets a little messy. The Center for Responsible Lending did a study of debt purchased by debt buyers. Over 90 percent of those debts ended in default, some due to uncertainty as to the origin of the debt. This bill will address that uncertainty and improve information to the debtor.

This bill has been well negotiated with consumer advocates and the industry. Many of these provisions are the equivalent to what has been adopted in other states which will bring consistency in practice.

**Persons Testifying:** PRO: Holly Chisa, Receivables Management Association International; Antonio Ginatta, Columbia Legal Services.

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