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HOUSE BILL 1054

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State of Washington

64th Legislature

2015 Regular Session

By Representative Stanford

Prefiled 12/22/14.

1 AN ACT Relating to collection agency transaction fees for  
2 processing electronic payments; and amending RCW 19.16.250.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 19.16.250 and 2013 c 148 s 2 are each amended to  
5 read as follows:

6 No licensee or employee of a licensee shall:

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

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

16 (3) Publish or post or cause to be published or posted, any list  
17 of debtors commonly known as "bad debt lists" or threaten to do so.  
18 For purposes of this chapter, a "bad debt list" means any list of  
19 natural persons alleged to fail to honor their lawful debts. However,  
20 nothing herein shall be construed to prohibit a licensee from  
21 communicating to its customers or clients by means of a coded list,

1 the existence of a check dishonored because of insufficient funds,  
2 not sufficient funds or closed account by the financial institution  
3 servicing the debtor's checking account: PROVIDED, That the debtor's  
4 identity is not readily apparent: PROVIDED FURTHER, That the licensee  
5 complies with the requirements of subsection (10)(e) of this section.

6 (4) Have in his or her possession or make use of any badge, use a  
7 uniform of any law enforcement agency or any simulation thereof, or  
8 make any statements which might be construed as indicating an  
9 official connection with any federal, state, county, or city law  
10 enforcement agency, or any other governmental agency, while engaged  
11 in collection agency business.

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

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

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

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

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

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

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

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

1 (ii) Interest or service charge, collection costs, or late  
2 payment charges, if any, added to the original obligation by the  
3 original creditor, customer or assignor before it was received by the  
4 licensee for collection, if such information is known by the licensee  
5 or employee: PROVIDED, That upon written request of the debtor, the  
6 licensee shall make a reasonable effort to obtain information on such  
7 items and provide this information to the debtor;

8 (iii) Interest or service charge, if any, added by the licensee  
9 or customer or assignor after the obligation was received by the  
10 licensee for collection;

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

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

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

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

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

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

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

36 (9) Communicate in writing with a debtor concerning a claim  
37 through a proper legal action, process, or proceeding, where such  
38 communication is the first written communication with the debtor,  
39 without providing the information set forth in subsection (8)(c) of  
40 this section in the written communication.

1 (10) Communicate or threaten to communicate, the existence of a  
2 claim to a person other than one who might be reasonably expected to  
3 be liable on the claim in any manner other than through proper legal  
4 action, process, or proceedings except under the following  
5 conditions:

6 (a) A licensee or employee of a licensee may inform a credit  
7 reporting bureau of the existence of a claim. If the licensee or  
8 employee of a licensee reports a claim to a credit reporting bureau,  
9 the licensee shall, upon receipt of written notice from the debtor  
10 that any part of the claim is disputed, notify the credit reporting  
11 bureau of the dispute by written or electronic means and create a  
12 record of the fact of the notification and when the notification was  
13 provided;

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

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

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

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

30 (d) A licensee may for the purpose of locating the debtor or  
31 locating assets of the debtor communicate the existence of a claim to  
32 any person who might reasonably be expected to have knowledge of the  
33 whereabouts of a debtor or the location of assets of the debtor if  
34 the claim is reduced to judgment, or if not reduced to judgment,  
35 when:

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

1 make payments on the claim in a manner acceptable to the licensee,  
2 and

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

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

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

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

15 (11) Threaten the debtor with impairment of his or her credit  
16 rating if a claim is not paid: PROVIDED, That advising a debtor that  
17 the licensee has reported or intends to report a claim to a credit  
18 reporting agency is not considered a threat if the licensee actually  
19 has reported or intends to report the claim to a credit reporting  
20 agency.

21 (12) Communicate with the debtor after notification in writing  
22 from an attorney representing such debtor that all further  
23 communications relative to a claim should be addressed to the  
24 attorney: PROVIDED, That if a licensee requests in writing  
25 information from an attorney regarding such claim and the attorney  
26 does not respond within a reasonable time, the licensee may  
27 communicate directly with the debtor until he or she or it again  
28 receives notification in writing that an attorney is representing the  
29 debtor.

30 (13) Communicate with a debtor or anyone else in such a manner as  
31 to harass, intimidate, threaten, or embarrass a debtor, including but  
32 not limited to communication at an unreasonable hour, with  
33 unreasonable frequency, by threats of force or violence, by threats  
34 of criminal prosecution, and by use of offensive language. A  
35 communication shall be presumed to have been made for the purposes of  
36 harassment if:

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

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

4 (c) It is made with the debtor or spouse at his or her place of  
5 residence between the hours of 9:00 p.m. and 7:30 a.m. A call to a  
6 telephone is presumed to be received in the local time zone to which  
7 the area code of the number called is assigned for landline numbers,  
8 unless the licensee reasonably believes the telephone is located in a  
9 different time zone. If the area code is not assigned to landlines in  
10 any specific geographic area, such as with toll-free telephone  
11 numbers, a call to a telephone is presumed to be received in the  
12 local time zone of the debtor's last known place of residence, unless  
13 the licensee reasonably believes the telephone is located in a  
14 different time zone.

15 (14) Communicate with the debtor through use of forms or  
16 instruments that simulate the form or appearance of judicial process,  
17 the form or appearance of government documents, or the simulation of  
18 a form or appearance of a telegraphic or emergency message.

19 (15) Communicate with the debtor and represent or imply that the  
20 existing obligation of the debtor may be or has been increased by the  
21 addition of attorney fees, investigation fees, service fees, or any  
22 other fees or charges when in fact such fees or charges may not  
23 legally be added to the existing obligation of such debtor.

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

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

31 (a) This subsection does not prohibit a licensee from attempting  
32 to communicate by way of a cellular telephone or other wireless  
33 device: PROVIDED, That a licensee cannot cause charges to be incurred  
34 to the recipient of the attempted communication more than three times  
35 in any calendar week when the licensee knows or reasonably should  
36 know that the number belongs to a cellular telephone or other  
37 wireless device, unless the licensee is responding to a communication  
38 from the debtor or the person to whom the call is made.

39 (b) The licensee is not in violation of (a) of this subsection if  
40 the licensee at least monthly updates its records with information

1 provided by a commercial provider of cellular telephone lists that  
2 the licensee in good faith believes provides reasonably current and  
3 comprehensive data identifying cellular telephone numbers, calls a  
4 number not appearing in the most recent list provided by the  
5 commercial provider, and does not otherwise know or reasonably should  
6 know that the number belongs to a cellular telephone.

7 (c) This subsection may not be construed to increase the number  
8 of communications permitted pursuant to subsection (13)(a) of this  
9 section.

10 (18) Call, or send a text message or other electronic  
11 communication to, a cellular telephone or other wireless device more  
12 than twice in any day when the licensee knows or reasonably should  
13 know that the number belongs to a cellular telephone or other  
14 wireless device, unless the licensee is responding to a communication  
15 from the debtor or the person to whom the call, text message, or  
16 other electronic communication is made. The licensee is not in  
17 violation of this subsection if the licensee at least monthly updates  
18 its records with information provided by a commercial provider of  
19 cellular telephone lists that the licensee in good faith believes  
20 provides reasonably current and comprehensive data identifying  
21 cellular telephone numbers, calls a number not appearing in the most  
22 recent list provided by the commercial provider, and does not  
23 otherwise know or reasonably should know that the number belongs to a  
24 cellular telephone. Nothing in this subsection may be construed to  
25 increase the number of communications permitted pursuant to  
26 subsection (13)(a) of this section.

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

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

32 (21) Collect or attempt to collect in addition to the principal  
33 amount of a claim any sum other than allowable interest, collection  
34 costs or handling fees expressly authorized by statute, a transaction  
35 fee for processing an electronic payment in an amount that does not  
36 exceed ten dollars or three percent of the payment amount, whichever  
37 is greater, provided that a no-cost payment option is available to  
38 the debtor, and, in the case of suit, attorney's fees and taxable  
39 court costs. A licensee may collect or attempt to collect collection  
40 costs and fees, including contingent collection fees, as authorized

1 by a written agreement or contract, between the licensee's client and  
2 the debtor, in the collection of a commercial claim. The amount  
3 charged to the debtor for collection services shall not exceed  
4 thirty-five percent of the commercial claim.

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

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

15 (24) Upon notification by a debtor that the debtor disputes all  
16 debts arising from a series of dishonored checks, automated  
17 clearinghouse transactions on a demand deposit account, or other  
18 preprinted written instruments, initiate oral contact with a debtor  
19 more than one time in an attempt to collect from the debtor debts  
20 arising from the identified series of dishonored checks, automated  
21 clearinghouse transactions on a demand deposit account, or other  
22 preprinted written instruments when: (a) Within the previous one  
23 hundred eighty days, in response to the licensee's attempt to collect  
24 the initial debt assigned to the licensee and arising from the  
25 identified series of dishonored checks, automated clearinghouse  
26 transactions on a demand deposit account, or other preprinted written  
27 instruments, the debtor in writing notified the licensee that the  
28 debtor's checkbook or other series of preprinted written instruments  
29 was stolen or fraudulently created; (b) the licensee has received  
30 from the debtor a certified copy of a police report referencing the  
31 theft or fraudulent creation of the checkbook, automated  
32 clearinghouse transactions on a demand deposit account, or series of  
33 preprinted written instruments; (c) in the written notification to  
34 the licensee or in the police report, the debtor identified the  
35 financial institution where the account was maintained, the account  
36 number, the magnetic ink character recognition number, the full bank  
37 routing and transit number, and the check numbers of the stolen  
38 checks, automated clearinghouse transactions on a demand deposit  
39 account, or other preprinted written instruments, which check numbers  
40 included the number of the check that is the subject of the



1 licensee's collection efforts; (d) the debtor provides, or within the  
2 previous one hundred eighty days provided, to the licensee a legible  
3 copy of a government-issued photo identification, which contains the  
4 debtor's signature and which was issued prior to the date of the  
5 theft or fraud identified in the police report; and (e) the debtor  
6 advised the licensee that the subject debt is disputed because the  
7 identified check, automated clearinghouse transaction on a demand  
8 deposit account, or other preprinted written instrument underlying  
9 the debt is a stolen or fraudulently created check or instrument.

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

1           (25) Submit an affidavit or other request pursuant to chapter  
2 6.32 RCW asking a superior or district court to transfer a bond  
3 posted by a debtor subject to a money judgment to the licensee, when  
4 the debtor has appeared as required.

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