

SENATE BILL REPORT

SB 6348

As of January 20, 2010

Title: An act relating to prohibited communications of collection agencies and their employees.

Brief Description: Prohibiting certain communications of collection agencies and their employees.

Sponsors: Senators Ranker, Swecker, Pridemore, Kohl-Welles, Regala, Berkey, Hobbs and Parlette.

Brief History:

Committee Activity: Labor, Commerce & Consumer Protection: 1/19/10.

SENATE COMMITTEE ON LABOR, COMMERCE & CONSUMER PROTECTION

Staff: Ingrid Mungia (786-7423)

Background: Collection agencies are regulated by the federal Fair Debt Collections Practices Act (15 USC 1692) and the state's collection agency law (RCW 19.16). These laws apply to businesses which collect debts for other businesses. They do not apply to a firm which is collecting its own past-due accounts.

Collection agencies, including out-of-state collection agencies doing business in Washington state, must be licensed by the Department of Licensing. The commission of certain prohibited practices violate the licensing laws and may also violate the Consumer Protection Act. Under state law, a collection agency is limited in the time, place, manner, and individuals it may contact to collect a debt.

The first time a collection agency contacts a debtor, it must give its name and address, and the name of the original creditor (the business or person the debtor owes money to). It must also inform the debtor in writing the amount of the debt and any fees which have been added, such as interest or collection fees. The debtor must also be informed of their right to dispute the information.

A collection agency cannot call or write to a debtor more than three times a week. Only one of those calls can be at work. A debtor cannot be called between the times of 9:00 p.m. and 7:30 a.m. A collection agency cannot harass, intimidate, threaten, or embarrass a debtor. Additionally, a collection agency cannot threaten violence, criminal prosecution, or use

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offensive language. A debtor may send a written statement requesting a collection agency to stop, then the agency cannot continue to call or write to demand payment.

If a debtor has an attorney, state law prohibits a collection agency from contacting anyone other than the attorney. If a debtor does not have an attorney, the agency can contact other people only to find out where a debtor lives or works. The collector cannot tell these people that a debtor owes money. In most cases, the collection agency can contact another person only once. These same rules apply to contact with a debtor's employer.

A collection agency is also prohibited from: publishing lists of people who owe money; using a badge or uniform of a law enforcement agency or claim to be from a government agency; using documents which look like court or government documents, telegrams, or emergency messages; making collect phone calls or sending collect telegrams; violating postal regulations; threatening to add charges that aren't legal; garnishing wages or taking a debtors home or possessions without a court judgment, (however, an exception exists for federally guaranteed student loans that are in default); or threatening to have a debtor put in jail for bad debt.

Summary of Bill: A collection agency may not communicate with a debtor or anyone else in a way that gives a false impression.

A communication by a collection agency is presumed to have been made for the purposes of harassment if it is made with the debtor's spouse or anyone else in any form, manner or place, more than three times in a single week.

A communication by a collection agency is presumed to have been made for the purposes of harassment if it is made with the debtor's spouse or anyone else at the debtor's place of residence between the hours of 9:00 p.m. and 7:30 a.m.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: Yes.

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

Staff Summary of Public Testimony: PRO: The main point is that debt collectors needs to be honest. When they call they need to not leave a false impression. Particularly now, with our economy, debt collectors are becoming more common. We need to make sure we are treating people with respect and honesty. The playing field needs to leveled between a consumer or debtor and a debt collection agency.

OTHER: We would never condone the behavior described by the prime sponsor. We are concerned about the broadness of the language in the bill. We are concerned that the description of the proscribed behavior might be so broad as to prohibit innocent behavior that isn't intended to be misrepresented and might be so broad as to let the collector know what they are presenting is prohibited. Such things as leaving a message and saying it is for an

important business or personal matter might be viewed as a false impression. We are only concerned about the broad terminology in section 12 of the bill. We train debt collectors to comply with the federal Fair Debt Collections Practices Act. With the way the bill is written, a collector could be viewed as leaving a false impression because they are not certain who they are talking to on the phone.

Persons Testifying: PRO: Senator Ranker, prime sponsor; Lisa Erwin, Consumer Protection Division, AGO.

OTHER: Grey Luhn, Kevin Underwood, Washington Collectors Association.