

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 2476

Chapter 30, Laws of 2020

66th Legislature
2020 Regular Session

DEBT BUYERS

EFFECTIVE DATE: June 11, 2020

Passed by the House February 12, 2020
Yeas 96 Nays 0

LAURIE JINKINS

Speaker of the House of Representatives

Passed by the Senate March 3, 2020
Yeas 48 Nays 0

CYRUS HABIB

President of the Senate

Approved March 18, 2020 10:33 AM

JAY INSLEE

Governor of the State of Washington

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 2476** as passed by the House of Representatives and the Senate on the dates hereon set forth.

BERNARD DEAN

Chief Clerk

FILED

March 18, 2020

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 2476

Passed Legislature - 2020 Regular Session

State of Washington

66th Legislature

2020 Regular Session

By House Civil Rights & Judiciary (originally sponsored by Representatives Walen, Duerr, Kloba, Kilduff, Leavitt, Lekanoff, Orwall, Davis, Doglio, Frame, Macri, Goodman, and Ormsby)

READ FIRST TIME 01/28/20.

1 AN ACT Relating to debt buyers; amending RCW 19.16.100,
2 19.16.260, 19.16.440, and 19.16.450; and creating a new section.

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

4 **Sec. 1.** RCW 19.16.100 and 2019 c 227 s 3 are each amended to
5 read as follows:

6 Unless a different meaning is plainly required by the context,
7 the following words and phrases as hereinafter used in this chapter
8 shall have the following meanings:

9 (1) "Board" means the Washington state collection agency board.

10 (2) "Claim" means any obligation for the payment of money or
11 thing of value arising out of any agreement or contract, express or
12 implied.

13 (3) "Client" or "customer" means any person authorizing or
14 employing a collection agency to collect a claim.

15 (4) "Collection agency" means and includes:

16 (a) Any person directly or indirectly engaged in soliciting
17 claims for collection, or collecting or attempting to collect claims
18 owed or due or asserted to be owed or due another person;

19 (b) Any person who directly or indirectly furnishes or attempts
20 to furnish, sells, or offers to sell forms represented to be a
21 collection system or scheme intended or calculated to be used to

1 collect claims even though the forms direct the debtor to make
2 payment to the creditor and even though the forms may be or are
3 actually used by the creditor himself or herself in his or her own
4 name;

5 (c) Any person who in attempting to collect or in collecting his
6 or her own claim uses a fictitious name or any name other than his or
7 her own which would indicate to the debtor that a third person is
8 collecting or attempting to collect such claim;

9 ~~(d) ((Any person or entity that is engaged in the business of~~
10 ~~purchasing delinquent or charged off claims for collection purposes,~~
11 ~~whether it collects the claims itself or hires a third party for~~
12 ~~collection or an attorney for litigation in order to collect such~~
13 ~~claims;))~~ A debt buyer as defined in this section;

14 (e) Any person or entity attempting to enforce a lien under
15 chapter 60.44 RCW, other than the person or entity originally
16 entitled to the lien.

17 (5) "Collection agency" does not mean and does not include:

18 (a) Any individual engaged in soliciting claims for collection,
19 or collecting or attempting to collect claims on behalf of a licensee
20 under this chapter, if said individual is an employee of the
21 licensee;

22 (b) Any individual collecting or attempting to collect claims for
23 not more than one employer, if all the collection efforts are carried
24 on in the name of the employer and if the individual is an employee
25 of the employer;

26 (c) Any person whose collection activities are carried on in his,
27 her, or its true name and are confined and are directly related to
28 the operation of a business other than that of a collection agency,
29 such as but not limited to: Trust companies; savings and loan
30 associations; building and loan associations; abstract companies
31 doing an escrow business; real estate brokers; property management
32 companies collecting assessments, charges, or fines on behalf of
33 condominium unit owners associations, associations of apartment
34 owners, or homeowners' associations; public officers acting in their
35 official capacities; persons acting under court order; lawyers;
36 insurance companies; credit unions; loan or finance companies;
37 mortgage banks; and banks;

38 (d) Any person who on behalf of another person prepares or mails
39 monthly or periodic statements of accounts due if all payments are

made to that other person and no other collection efforts are made by the person preparing the statements of account;

(e) An "out-of-state collection agency" as defined in this chapter; or

(f) Any person while acting as a debt collector for another person, both of whom are related by common ownership or affiliated by corporate control, if the person acting as a debt collector does so only for persons to whom it is so related or affiliated and if the principal business of the person is not the collection of debts.

(6) "Commercial claim" means any obligation for payment of money or thing of value arising out of any agreement or contract, express or implied, where the transaction which is the subject of the agreement or contract is not primarily for personal, family, or household purposes.

(7) "Debt buyer" means 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.

(8) "Debtor" means any person owing or alleged to owe a claim.

~~((+8+))~~ (9) "Director" means the director of licensing.

~~((+9+))~~ (10) "Licensee" means any person licensed under this chapter.

~~((+10+))~~ (11) "Medical debt" means any obligation for the payment of money arising out of any agreement or contract, express or implied, for the provision of health care services as defined in RCW 48.44.010. In the context of "medical debt," "charity care" has the same meaning as provided in RCW 70.170.020.

~~((+11+))~~ (12) "Out-of-state collection agency" means a person whose activities within this state are limited to collecting debts from debtors located in this state by means of interstate communications, including telephone, mail, or facsimile transmission, from the person's location in another state on behalf of clients located outside of this state, but does not include any person who is excluded from the definition of the term "debt collector" under the federal fair debt collection practices act (15 U.S.C. Sec. 1692a(6)).

~~((+12+))~~ (13) "Person" includes individual, firm, partnership, trust, joint venture, association, or corporation.

~~((+13+))~~ (14) "Statement of account" means a report setting forth only amounts billed, invoices, credits allowed, or aged balance due.

1 **Sec. 2.** RCW 19.16.260 and 2013 c 148 s 3 are each amended to
2 read as follows:

3 (1)(a) No collection agency or out-of-state collection agency may
4 bring or maintain an action in any court of this state involving the
5 collection of its own claim or a claim of any third party without
6 alleging and proving that he, she, or it is duly licensed under this
7 chapter and has satisfied the bonding requirements hereof, if
8 applicable: PROVIDED, That in any case where judgment is to be
9 entered by default, it shall not be necessary for the collection
10 agency or out-of-state collection agency to prove such matters.

11 (b) A copy of the current collection agency license or out-of-
12 state collection agency license, certified by the director to be a
13 true and correct copy of the original, shall be prima facie evidence
14 of the licensing and bonding of such collection agency or out-of-
15 state collection agency as required by this chapter.

16 (2) No debt buyer may:

17 (a) Bring any legal action against a debtor without attaching to
18 the complaint a copy of the contract or other writing evidencing the
19 original debt that contains the signature of the debtor, or:

20 (i) If a claim is based on a credit card debt for which a signed
21 writing evidencing the original debt does not exist, a copy of the
22 most recent monthly statement recording a purchase transaction,
23 payment, or other extension of credit and, if the claim is based on a
24 breach of contract, a copy of the terms and conditions in place at
25 the time of the most recent monthly statement recording a purchase
26 transaction, payment, or extension of credit must also be attached;
27 or

28 (ii) If a claim is based on an electronic transaction for which a
29 signed writing evidencing the original debt never existed, a copy of
30 the records created during the transaction evidencing the debtor's
31 agreement to the debt and recording the date and terms of the
32 transaction and information provided by the debtor during the
33 transaction.

34 (b) Request a default judgment against a debtor in any legal
35 action without providing to the court evidence that satisfies the
36 requirements of rule 803(a)(6) of the rules of evidence and RCW
37 5.45.020 or is otherwise authorized by law or rule that establishes
38 the amount and nature of the debt, including the documents required
39 by (a) of this subsection, and:

40 (i) The original account number at charge-off;

1 (ii) The original creditor at charge-off;
2 (iii) The amount due at charge-off or, if the balance has not
3 been charged off, an itemization of the amount claimed to be owed,
4 including the principal, interest, fees, and other charges or
5 reductions from payment made or other credits;
6 (iv) An itemization of post charge-off additions, if any;
7 (v) The date of the last payment, if applicable, or the date of
8 the last transaction;
9 (vi) If the account is not a revolving credit account, the date
10 the debt was incurred; and
11 (vii) A copy of the assignment or other writing establishing that
12 the debt buyer is the owner of the debt. If the debt was assigned
13 more than once, each assignment or other writing evidencing transfer
14 of ownership must be attached to establish an unbroken chain of
15 ownership, beginning with the original creditor to the first debt
16 buyer and each subsequent sale.
17 (c) Bring any legal action against a debtor without providing a
18 disclosure in the complaint, in no smaller than ten point type,
19 stating each of the following:
20 (i) That the action is being brought by, or for the benefit of, a
21 person or entity that is engaged in the business of purchasing
22 delinquent or charged off claims for collection purposes;
23 (ii) The date the claim or obligation was purchased;
24 (iii) The identity of the person or entity from whom or which the
25 claim or obligation was purchased;
26 (iv) That the plaintiff may have purchased this claim or
27 obligation for less than the value stated in the complaint;
28 (v) If the claim or obligation was at any time sold without any
29 representation or warranty of accuracy, a statement to that effect;
30 and
31 (vi) That the action is being commenced within, and is not barred
32 by, an applicable statute of limitations.

33 **Sec. 3.** RCW 19.16.440 and 1994 c 195 s 11 are each amended to
34 read as follows:

35 The operation of a collection agency or out-of-state collection
36 agency without a license as prohibited by RCW 19.16.110 and the
37 commission by a licensee or an employee of a licensee of an act or
38 practice prohibited by RCW 19.16.250 or 19.16.260 are declared to be
39 unfair acts or practices or unfair methods of competition in the

1 conduct of trade or commerce for the purpose of the application of
2 the ((Consumer Protection Act)) consumer protection act found in
3 chapter 19.86 RCW.

4 **Sec. 4.** RCW 19.16.450 and 1971 ex.s. c 253 s 36 are each amended
5 to read as follows:

6 If an act or practice in violation of RCW 19.16.250 or 19.16.260
7 is committed by a licensee or an employee of a licensee in the
8 collection of a claim, neither the licensee, the customer of the
9 licensee, nor any other person who may thereafter legally seek to
10 collect on such claim shall ever be allowed to recover any interest,
11 service charge, attorneys' fees, collection costs, delinquency
12 charge, or any other fees or charges otherwise legally chargeable to
13 the debtor on such claim: PROVIDED, That any person asserting the
14 claim may nevertheless recover from the debtor the amount of the
15 original claim or obligation.

16 NEW SECTION. **Sec. 5.** This act applies prospectively only and
17 not retroactively. It applies with respect to delinquent or charged
18 off claims purchased for collection purposes by a debt buyer on or
19 after the effective date of this section.

Passed by the House February 12, 2020.

Passed by the Senate March 3, 2020.

Approved by the Governor March 18, 2020.

Filed in Office of Secretary of State March 18, 2020.

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