SENATE BILL 5720

State of Washington 69th Legislature 2025 Regular Session

By Senators Pedersen and Warnick; by request of Uniform Law Commission

AN ACT Relating to the uniform consumer debt default judgments 1 2 act; amending RCW 19.16.260; and adding a new chapter to Title 4 RCW. BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON: 3 4 NEW SECTION. Sec. 1. TITLE. This chapter may be known and cited 5 as the uniform consumer debt default judgments act. NEW SECTION. Sec. 2. DEFINITIONS. In this chapter: 6 7 (1) "Charge off" means a creditor's removal of a consumer debt as an asset from the creditor's financial records. 8 9 (2) "Consumer" means an individual named as a defendant in an action for collection of a consumer debt to which this chapter 10 11 applies. 12 (3) "Consumer debt" means an obligation or alleged obligation of 13 an individual to pay money that arises out of a transaction in which 14 the money, property, insurance, or service that is the subject of the 15 transaction is primarily for a personal, family, or household 16 purpose.

17 (4) "Creditor" means a person to which a consumer debt is owed at 18 the time of the itemization date. If the debt is owed to a debt 19 purchaser on the itemization date, the "creditor" is the person to

p. 1

whom the debt was owed immediately prior to the time the debt was
 purchased or acquired by a debt purchaser.

3 (5) "Debt purchaser" means a person who purchased or acquired 4 ownership of the debt after the debt was charged off, or if the debt 5 was not charged off, after the time of default.

6 (6) "Electronic" means relating to technology having electrical,
7 digital, magnetic, wireless, optical, electromagnetic, or similar
8 capabilities.

9 (7) "Finance charge" has the meaning in section 106 of the truth 10 in lending act, 15 U.S.C. Sec. 1605.

11

(8) "Itemization date" means any of the following:

12 (a) Date of charge off;

13 (b) Date of any default or date the creditor becomes aware of any 14 default;

15 (c) Date of disposition of property that secured the debt;

16 (d) Date of last statement provided by the creditor;

17 (e) Date of last payment;

18 (f) Date of transaction;

19 (g) Date of any arbitration award; or

20 (h) Date of assignment or transfer of the debt to a third party 21 for the purposes of the third party collecting the debt for the 22 assignor or transferor.

(9) "Outstanding balance" means the amount owed on a consumer debt on the itemization date.

(10) "Medical debt" means any obligation for the payment of money owed by a consumer to a person whose primary business is providing medical services, products, or devices, or to such person's agent or assignee, for the provision of such medical services, products, or devices.

30 (11) "Person" means an individual, estate, business or nonprofit 31 entity, government or governmental subdivision, agency, or 32 instrumentality, or other legal entity.

33

34

(12) "Record" means information:

(a) Inscribed on a tangible medium; or

35 (b) Stored in an electronic or other medium and retrievable in 36 perceivable form.

37 (13) "Secured consumer debt" means a consumer debt secured by 38 real or personal property.

39 (14) "Sign" means, with present intent to authenticate or adopt a 40 record: 1

(a) Execute or adopt a tangible symbol; or

2 (b) Attach to or logically associate with the record an 3 electronic symbol, sound, or process.

4 (15) "Unsecured consumer debt" means a consumer debt not secured 5 by real or personal property.

6 <u>NEW SECTION.</u> Sec. 3. SCOPE. (1) Except as provided in 7 subsection (2) of this section, this chapter applies to the award of 8 a default judgment in an action for collection of:

(a) An unsecured consumer debt;

10 (b) A secured consumer debt if the action is brought solely to 11 obtain a money judgment; or

12 (c) A deficiency that remains after disposition of property that 13 secured a consumer debt.

14

9

(2) This chapter does not apply to:

15 (a) An action to take possession of or dispose of real or 16 personal property, even if the action includes a request for a money 17 judgment; or

18 (b) An action to collect a debt owed to a government, 19 governmental subdivision, or agency in which the government, 20 governmental subdivision, or agency is the plaintiff.

21 <u>NEW SECTION.</u> Sec. 4. COMPLAINT REQUIREMENTS. (1) A default 22 judgment in an action to which this chapter applies may be entered 23 only if the complaint or amended complaint complies with this section 24 and includes the notice required under section 5 of this act.

(2) If the plaintiff amends a complaint before a responsive pleading is made, causing it to comply with this section or include the notice required under section 5 of this act where it did not previously, the personal jurisdiction of the court over the defendant is voided and is acquired again only when the amended complaint is served on the defendant as though it was the original complaint.

31

(3) The complaint or amended complaint must state:

32 (a) The name and the last known city, county, state, and zip code 33 portions of the address of each consumer named in the complaint in 34 the records of the creditor;

35 (b) For medical debt, the name of the provider or facility 36 associated with the debt on the itemization date;

37 (c) The name of the creditor, including any merchant brand,38 affinity brand, or facility name associated with the debt;

SB 5720

1 (d) At least the last four digits of the account number or other 2 account identifier used by the creditor in communicating with the consumer before the itemization date; 3 4 (e) The date and amount of the last payment; (f) The date of charge off or, if the debt was not charged off, 5 6 the date of default; 7 (q) The amount of the outstanding balance; (h) The amount of the judgment the plaintiff seeks, stating the 8 outstanding balance and itemizing the following amounts not included 9 in the outstanding balance: 10 11 (i) Total finance charges; (ii) Total fees or costs; and 12 13 (iii) Total credits and payments; 14 (i) Whether the amount of the judgment may increase due to 15 accrued interest, attorney fees, or other amounts; 16 (j) The authority of the plaintiff to commence the action; 17 (k) Facts sufficient to demonstrate that, to the plaintiff's knowledge, the action is being commenced in a proper venue; 18 19 (1) Facts sufficient to demonstrate that, if the plaintiff is 20 prohibited by statute from bringing the action outside of the 21 applicable statute of limitations, the action is being commenced within the statute of limitation period applicable to the debt; and 22 (m) If the plaintiff is a debt purchaser or bringing the action 23 24 on behalf of a debt purchaser: 25 (i) The name of each person that acquired ownership of the debt 26 after charge off or, if the debt was not charged off, after default; 27 and (ii) The date of each acquisition. 28 29 (4) Subject to authentication required by other laws of this state and rules of procedure, the plaintiff must attach to the 30 31 complaint or amended complaint: 32 (a) At least one of the following that is sufficient to demonstrate the existence of the consumer debt: 33 (i) An agreement signed by the consumer; 34 35 (ii) A record of a purchase, payment, or use of an account; or 36 (iii) A record otherwise demonstrating the debt was incurred; and (b) If the plaintiff is not the creditor, a statement indicating 37

38 the authority of the plaintiff to collect the debt.

SB 5720

1 <u>NEW SECTION.</u> Sec. 5. CONSUMER NOTICE. (1) A default judgment 2 may be entered in an action to which this chapter applies only if the 3 complaint or amended complaint served on the consumer includes, or is 4 accompanied by, a notice warning that a default judgment may be 5 awarded against the consumer.

6 (2) The notice must be substantially similar to the form in 7 subsection (3) of this section that states:

8 (a) If the consumer does not file an answer to the complaint or 9 amended complaint, a default judgment may be entered against the 10 consumer;

(b) If a judgment is entered against the consumer, the amount of the judgment, plus interest on the judgment as provided by other laws of this state, could remain in effect for up to 20 years, even if the judgment is not credit reported or no longer remains on the consumer's credit report;

(c) After entry of a judgment, the plaintiff may, but will not necessarily, take steps to sell real estate owned by the consumer, sell personal property owned by the consumer, attach the consumer's bank accounts, or garnish the consumer's wages;

20 (d) Entry of a judgment may in some circumstances impair access21 to employment, insurance, credit, or housing;

(e) An attorney may provide assistance in understanding the complaint or amended complaint and advice about what action to take in response to the complaint or amended complaint; and

25 (f) Contact information for a legal aid or attorney referral 26 service that may be able to help the consumer find an attorney, and 27 if the consumer cannot afford an attorney, may be able to provide 28 free or reduced-cost legal services.

29

(3) The following notice meets the requirements of this section:

30

Consumer Notice

This notice is required to be given to you by law and its content is prescribed by law; this notice and its content are not statements, representations, or threats by, nor advice from, the plaintiff or the plaintiff's attorney.

35	1. Why Am I Getting This Notice?	The plaintiff named in the complaint has filed a lawsuit
36		against you to collect money that the plaintiff says you owe.
37	2. What Will Happen If I Do Nothing?	A judgment may be entered against you.

1	3. What Happens If A Judgment Is Entered Against	Your personal property may be taken and sold. Money may
2	Me?	be taken directly from your bank account or wages. A lien
3		may be put on your house or other real estate and the house
4		or real estate may be sold. These are things that could
5		happen, although they won't necessarily happen.
6		If the judgment is not paid in full, the amount due may
7		grow because of interest charges.
8		You could owe the amount of any unpaid judgment for up
9		to 20 years, even if it is not credit reported or it no longer
10		appears on your credit report.
11		The judgment may make it harder for you to get a job or
12		insurance and more expensive for you to get a loan or credit
13		card, rent an apartment, or buy a house or car.
14	4. Is Help Available?	If you talk with a lawyer, the lawyer can explain the
15		situation and help you decide what to do. If you cannot
16		afford a lawyer, you may be able to obtain one for free or
17		reduced cost. You may call 211 for a referral to legal
18		counsel.

Sec. 6. FAILURE TO COMPLY. If a plaintiff in an 19 NEW SECTION. action to which this chapter applies fails to comply with any 20 21 requirement of this chapter, the court may deny the plaintiff's 22 motion for default or default judgment and may on motion of a party or on the court's own motion issue a notice that the court will 23 24 dismiss the case without prejudice unless, within 30 days following 25 the sending to the plaintiff of such notice of intent to dismiss, the 26 plaintiff files an amended complaint that complies with this chapter.

27 <u>NEW SECTION.</u> Sec. 7. WAIVER VOID. A waiver by a consumer of a 28 requirement of this chapter is void. This section does not prevent a 29 voluntary settlement agreement or judgment between the parties that 30 does not result in a default judgment.

31 <u>NEW SECTION.</u> Sec. 8. RELATION TO OTHER LAWS. This chapter 32 supplements rights and remedies available to a consumer under other 33 laws of this state.

34 <u>NEW SECTION.</u> **Sec. 9.** UNIFORMITY OF APPLICATION AND 35 CONSTRUCTION. In applying and construing this uniform act, a court

p. 6

shall consider the promotion of uniformity of the law among
 jurisdictions that enact it.

3 <u>NEW SECTION.</u> Sec. 10. RELATION TO ELECTRONIC SIGNATURES IN 4 GLOBAL AND NATIONAL COMMERCE ACT. This chapter modifies, limits, or 5 supersedes the electronic signatures in global and national commerce 6 act, 15 U.S.C. Sec. 7001 et seq., but does not modify, limit, or 7 supersede 15 U.S.C. Sec. 7001(c), or authorize electronic delivery of 8 any of the notices described in 15 U.S.C. Sec. 7003(b).

9 <u>NEW SECTION.</u> Sec. 11. TRANSITIONAL PROVISION. This chapter 10 applies to an action commenced on or after the effective date of this 11 section.

12 Sec. 12. RCW 19.16.260 and 2020 c 30 s 2 are each amended to 13 read as follows:

14 (1)(((a))) No collection agency or out-of-state collection agency may bring or maintain an action in any court of this state involving 15 16 the collection of its own claim or a claim of any third party without alleging and proving that he, she, or it is duly licensed under this 17 18 chapter and has satisfied the bonding requirements hereof, if applicable: PROVIDED, That in any case where judgment is to be 19 entered by default, it shall not be necessary for the collection 20 agency or out-of-state collection agency to prove such matters. 21

22 $((\frac{b}{b}))$ (2) A copy of the current collection agency license or 23 out-of-state collection agency license(($_r$ certified by the director 24 to be a true and correct copy of the original $_r$)) shall be prima facie 25 evidence of the licensing and bonding of such collection agency or 26 out-of-state collection agency as required by this chapter.

27

(((2) No debt buyer may:

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

31 (i) If a claim is based on a credit card debt for which a signed 32 writing evidencing the original debt does not exist, a copy of the 33 most recent monthly statement recording a purchase transaction, 34 payment, or other extension of credit and, if the claim is based on a 35 breach of contract, a copy of the terms and conditions in place at 36 the time of the most recent monthly statement recording a purchase

1	transaction, payment, or extension of credit must also be attached;
2	or
3	(ii) If a claim is based on an electronic transaction for which a
4	signed writing evidencing the original debt never existed, a copy of
5	the records created during the transaction evidencing the debtor's
6	agreement to the debt and recording the date and terms of the
7	transaction and information provided by the debtor during the
8	transaction.
9	(b) Request a default judgment against a debtor in any legal
10	action without providing to the court evidence that satisfies the
11	requirements of rule 803(a)(6) of the rules of evidence and RCW
12	5.45.020 or is otherwise authorized by law or rule that establishes
13	the amount and nature of the debt, including the documents required
14	by (a) of this subsection, and:
15	(i) The original account number at charge-off;
16	(ii) The original creditor at charge-off;
17	(iii) The amount due at charge-off or, if the balance has not
18	been charged off, an itemization of the amount claimed to be owed,
19	including the principal, interest, fees, and other charges or
20	reductions from payment made or other credits;
21	(iv) An itemization of post charge-off additions, if any;
22	(v) The date of the last payment, if applicable, or the date of
23	the last transaction;
24	(vi) If the account is not a revolving credit account, the date
25	the debt was incurred; and
26	(vii) A copy of the assignment or other writing establishing that
27	the debt buyer is the owner of the debt. If the debt was assigned
28	more than once, each assignment or other writing evidencing transfer
29	of ownership must be attached to establish an unbroken chain of
30	ownership, beginning with the original creditor to the first debt
31	buyer and each subsequent sale.
32	(c) Bring any legal action against a debtor without providing a
33	disclosure in the complaint, in no smaller than ten point type,
34	stating each of the following:
35	(i) That the action is being brought by, or for the benefit of, a
36	person or entity that is engaged in the business of purchasing
37	delinquent or charged off claims for collection purposes;
38	(ii) The date the claim or obligation was purchased;
39	(iii) The identity of the person or entity from whom or which the
40	claim or obligation was purchased;

p. 8

1 (iv) That the plaintiff may have purchased this claim or 2 obligation for less than the value stated in the complaint;

3 (v) If the claim or obligation was at any time sold without any 4 representation or warranty of accuracy, a statement to that effect; 5 and

6 (vi) That the action is being commenced within, and is not barred
7 by, an applicable statute of limitations.))

8 <u>NEW SECTION.</u> Sec. 13. SEVERABILITY. If any provision of this 9 act or its application to any person or circumstance is held invalid, 10 the remainder of the act or the application of the provision to other 11 persons or circumstances is not affected.

12 <u>NEW SECTION.</u> Sec. 14. Sections 1 through 11 of this act 13 constitute a new chapter in Title 4 RCW.

--- END ---