

Addendum to Victim Assistance Bill

Two issues not addressed in the victim assistance bill, LC8877, are notification when an identity thief misuses someone else's personal information and the question of numerous phone calls for debt collectors.

These issues were not presented to the identity theft work group except in an email sent on Sept. 8, 2006, along with a reference to LC9833, which addresses some of the issues. LC9833 generated some quick responses, mostly negative.

The following statutes currently exist in Montana law and may be sufficient – or appropriate to amend – to address the concerns about notification when identity theft indicates misuse of personal information. Questions are in the boxes. Also provided are a Washington State proposal for a fraud alert network, which may be one way of trying to achieve notification, and the existing Washington State law referencing numerous phone calls over bad checks. Throughout this paper, **highlighted** information is part of existing law. Underlined subsections in Montana statutes are suggested additions to existing law. Some of the statutes are provided for informational purposes only.

31-3-111. Permissible purposes of reports. A consumer reporting agency may furnish a consumer report under the following circumstances and no other:

- (1) in response to the order of a court having jurisdiction to issue such an order;
- (2) in accordance with the written instructions of the consumer to whom it relates;
- (3) to a person which it has reason to believe:

(a) intends to use the information in connection with a credit transaction involving the consumer on whom the information is to be furnished and involving the extension of credit to, or review or collection of an account of, the consumer;

(b) intends to use the information for employment purposes;

(c) intends to use the information in connection with the underwriting of insurance involving the consumer;

(d) intends to use the information in connection with a determination of the consumer's eligibility for a license or other benefit granted by a governmental instrumentality required by law to consider an applicant's financial responsibility or status; or

(e) otherwise has a legitimate business need for the information in connection with a business transaction involving the consumer.

(4) To be eligible for the legitimate business need under subsection (3)(e), a person shall notify by email or letter the consumer that is the subject of the inquiry of an intent to use or sell that consumer's consumer report or personal information. For the purposes of this subsection "personal information" has the meaning provided in 30-14-1702.

Is this change needed for the uses/sales that now are done over the Internet of personal information? **Do privacy issues require permission for certain data?**

History: En. 18-504 by Sec. 4, Ch. 547, L. 1975; R.C.M. 1947, 18-504.

31-3-112. Obsolete information. No consumer reporting agency may make any consumer report containing any of the following items of information:

(1) bankruptcies which, from date of adjudication of the most recent bankruptcy, antedate the report by more than 14 years;

- (2) suits and judgments which, from date of entry, antedate the report by more than 7 years or until the governing statute of limitations has expired, whichever is the longer period;
 - (3) paid tax liens which, from date of payment, antedate the report by more than 7 years;
 - (4) accounts placed for collection or charged to profit and loss which antedate the report by more than 7 years;
 - (5) records of arrest, indictment, or conviction of crime which, from date of disposition, release, or parole, antedate the report by more than 7 years;
 - (6) any other adverse item of information which antedates the report by more than 7 years.
 - (7) any information expunged from a criminal record because of identity theft.
- History: En. 18-505 by Sec. 5, Ch. 547, L. 1975; R.C.M. 1947, 18-505.

31-3-113. Disclosure of investigative consumer reports. (1) A person may not procure or cause to be prepared or distribute an investigative consumer report on any consumer unless:

(a) it is clearly and accurately disclosed to the consumer that an investigative consumer report including information as to his character, general reputation, personal characteristics, and mode of living, whichever are applicable, may be made and such disclosure is made in a writing mailed or otherwise delivered to the consumer not later than 3 days after the date on which the report was first requested and includes a statement informing the consumer of his right to request the additional disclosures provided for under subsection (2) of this section; or

(b) the report is to be used for employment purposes for which the consumer applied.

(2) Any person who procures or causes to be prepared an investigative consumer report on any consumer shall, upon written request made by the consumer within a reasonable period of time after the receipt by him of the disclosure required by subsection (1)(a), make a complete and accurate disclosure of the nature, scope, and substance of the investigation requested. This disclosure shall be made in a writing mailed or otherwise delivered to the consumer not later than 5 days after the date on which the request for such disclosure was received from the consumer or such report was first requested, whichever is the latter.

(3) No person may be held liable for any violation of subsection (1) or (2) of this section if he shows by a preponderance of the evidence that at the time of the violation he maintained reasonable procedures to assure compliance with subsection (1) or (2).

History: En. 18-506 by Sec. 6, Ch. 547, L. 1975; R.C.M. 1947, 18-506.

31-3-114. Compliance procedures. (1) Every consumer reporting agency shall maintain reasonable procedures designed to avoid violations of 31-3-112 and 31-3-113 and to limit the furnishing of consumer reports to the purposes listed under 31-3-111. These procedures shall require that prospective users of the information identify themselves, certify the purposes for which the information is sought, and certify that the information will be used for no other purpose. Every consumer reporting agency shall make a reasonable effort to verify the identity of a new prospective user and the uses certified by such prospective user prior to furnishing such user a consumer report. No consumer reporting agency may furnish a consumer report to any person if it has reasonable grounds for believing that the consumer report will not be used for a purpose listed in 31-3-111.

(2) Whenever a consumer reporting agency prepares a consumer report, it shall follow reasonable procedures to assure maximum possible accuracy of the information concerning the individual about whom the report relates, and it shall maintain a record of all persons using the information and the source of each piece of information.

(3) When gathering information, a consumer reporting agency shall notify any person who furnishes information that he is liable to suit if the information is false or furnished with malice or willful intent to injure the consumer.

History: En. 18-507 by Sec. 7, Ch. 547, L. 1975; R.C.M. 1947, 18-507.

31-3-115. Adverse information. (1) Whenever a consumer reporting agency prepares an investigative consumer report, adverse information in the consumer report, other than information that is a matter of public record, may not be included in a subsequent consumer report unless the adverse information has been verified in the process of making the subsequent consumer report.

(2) A consumer reporting agency shall block the reporting of any information in the file of a consumer that the consumer identifies as information that resulted from an alleged identity theft, pursuant to 15 U.S.C. 1681c-2.

History: En. 18-508 by Sec. 8, Ch. 547, L. 1975; R.C.M. 1947, 18-508; amd. Sec. 1, Ch. 518, L. 2005.

31-3-121. Disclosures to governmental agencies. Notwithstanding the provisions of 31-3-111, a consumer reporting agency may furnish identifying information respecting any consumer, limited to his name, address, former addresses, places of employment, or former places of employment, to a governmental agency.

History: En. 18-509 by Sec. 9, Ch. 547, L. 1975; R.C.M. 1947, 18-509.

31-3-122. Disclosures to consumers. (1) Every consumer reporting agency shall, upon request and proper identification of any consumer, clearly and accurately disclose to the consumer:

- (a) the nature and substance of all information (except medical information) in its files on the consumer at the time of the request; and
- (b) the sources of the information.

(2) The requirements of subsection (1) respecting the disclosure of sources of information and the recipients of consumer reports furnished prior to July 1, 1975, do not apply to existing consumer reporting agencies except to the extent that the matter involved is contained in the files of the consumer reporting agency on that date.

History: En. 18-510 by Sec. 10, Ch. 547, L. 1975; amd. Sec. 3, Ch. 185, L. 1977; R.C.M. 1947, 18-510.

31-3-123. Conditions of disclosure to consumer. (1) A consumer reporting agency shall make the disclosures required under 31-3-122 during normal business hours and on reasonable notice.

(2) The disclosures required under 31-3-122 shall be made to the consumer:

- (a) in person if he appears in person and furnishes proper identification; or
- (b) by telephone if he has made a written request, with proper identification for telephone disclosure, and the toll charge, if any, for the telephone call is prepaid by or charged directly to the consumer.

(3) Any consumer reporting agency shall provide trained personnel to explain to the consumer any information furnished to him pursuant to 31-3-122.

(4) The consumer shall be permitted to be accompanied by one other person of his choosing, who shall furnish reasonable identification. A consumer reporting agency may require the consumer to furnish a written statement granting permission to the consumer reporting agency to discuss the consumer's file in such person's presence.

History: En. 18-511 by Sec. 11, Ch. 547, L. 1975; R.C.M. 1947, 18-511.

31-3-124. Procedure in case of disputed accuracy. (1) If the completeness or accuracy of any item of information contained in this file is disputed by a consumer and the dispute is directly conveyed to the consumer reporting agency by the consumer, the consumer reporting agency shall within a reasonable period of time reinvestigate and record the current status of that information unless it has reasonable grounds to believe that the dispute by the consumer is frivolous or irrelevant. If after such reinvestigation such information is found to be inaccurate or can no longer be verified, the

consumer reporting agency shall promptly delete the information and notify all users, of whom the consumer reporting agency has records, of the information's deletion. The users shall also delete the information.

(2) If the reinvestigation does not resolve the dispute, the consumer may file a brief statement setting forth the nature of the dispute.

(3) Whenever a statement of a dispute is filed, unless there are reasonable grounds to believe that it is frivolous or irrelevant, the consumer reporting agency shall, in any subsequent consumer report containing the information in question, clearly note that it is disputed by the consumer and provide either the consumer's statement or a clear and accurate codification or summary thereof. The consumer reporting agency shall notify the consumer of all users, of whom it has records, who have the disputed information.

History: En. 18-512 by Sec. 12, Ch. 547, L. 1975; R.C.M. 1947, 18-512.

31-3-125. Fees for disclosures to consumers. A consumer reporting agency shall make all disclosures pursuant to 31-3-122 and 31-3-124 to the consumer, with appropriate fees to be established by the **department of administration** in accordance with the Montana Administrative Procedure Act.

Does this need to be changed to the Department of Justice? DOJ regulates Title 30, chapter 14. (see below)

31-3-126. Public record information for employment purposes. A consumer reporting agency which furnishes a consumer report for employment purposes and which for that purpose compiles and reports items of information on consumers which are matters of public record and are likely to have an adverse effect upon a consumer's ability to obtain employment shall:

(1) at the time such public record information is reported to the user of such consumer report, notify the consumer of the fact that public record information is being reported by the consumer reporting agency, together with the name and address of the person to whom such information is being reported; or

(2) maintain strict procedures designed to insure that whenever public record information which is likely to have an adverse effect on a consumer's ability to obtain employment is reported it is complete and up-to-date. For purposes of this paragraph, items of public record relating to arrests, indictments, convictions, suits, tax liens, and outstanding judgments shall be considered up-to-date if the current public record status of the item at the time of the report is reported.

History: En. 18-514 by Sec. 14, Ch. 547, L. 1975; R.C.M. 1947, 18-514.

31-3-141. Actions available to consumer. (1) A consumer may bring action in the nature of defamation, **invasion of privacy**, or negligence with respect to the reporting of information against any person who fails to comply with this part.

(2) A person who fails to delete information or incorporate into a report a consumer's statement of dispute because the person judges the dispute to be frivolous or irrelevant is liable to suit.

(3) A person, other than the department of public health and human services under 40-5-261, who furnishes information to a consumer reporting agency that is false or a person who furnishes the information with malice or willful intent to injure the concerned consumer is liable to suit.

(4) A consumer who disputes the result of a reinvestigation conducted under 31-3-124 of the accuracy of information provided by the department of public health and human services may petition for an administrative hearing pursuant to 40-5-261.

History: En. 18-516 by Sec. 16, Ch. 547, L. 1975; R.C.M. 1947, 18-516; amd. Sec. 1, Ch. 418, L. 1989; amd. Sec. 35, Ch. 16, L. 1991; amd. Sec. 82, Ch. 546, L. 1995.

31-3-142. Civil liability for willful noncompliance. Any consumer reporting agency or user of information which willfully fails to comply with any requirement imposed under this part with respect to any consumer is liable to that consumer in an amount equal to the sum of:

- (1) any actual damages sustained by the consumer as a result of the failure;
- (2) such amounts of punitive damages as the court may allow; and
- (3) in the case of any successful action to enforce any liability under this section, the costs of the action together with reasonable attorneys' fees as determined by the court.

History: En. 18-517 by Sec. 17, Ch. 547, L. 1975; R.C.M. 1947, 18-517.

31-3-143. Civil liability for negligent noncompliance. Any consumer reporting agency or user of information which is negligent in failing to comply with any requirement imposed under this part with respect to any consumer is liable to that consumer in an amount equal to the sum of:

- (1) any actual damages sustained by the consumer as a result of the failure;
- (2) in the case of any successful action to enforce any liability under this section, the costs of the action together with reasonable attorneys' fees as determined by the court.

History: En. 18-518 by Sec. 18, Ch. 547, L. 1975; R.C.M. 1947, 18-518.

31-3-151. Jurisdiction -- venue. A consumer may bring suit in any district court in Montana, except that disputes concerning information provided under 40-5-261 are subject to administrative and judicial review as provided in 40-5-261.

History: En. 18-519 by Sec. 19, Ch. 547, L. 1975; R.C.M. 1947, 18-519; amd. Sec. 2, Ch. 418, L. 1989.

Does this need to be changed to be Department of Justice? DOJ regulates Title 30, chapter 14. (see violation statute below)

31-3-152. Rules. The department of administration shall enforce this part and adopt rules necessary to carry out the intent of this part.

History: En. 18-520 by Sec. 20, Ch. 547, L. 1975; R.C.M. 1947, 18-520; amd. Sec. 2, Ch. 274, L. 1981; amd. Sec. 2, Ch. 543, L. 1985; amd. Sec. 3, Ch. 418, L. 1989; amd. Sec. 73, Ch. 483, L. 2001.

31-3-153. Violation. For the purposes of this part, a violation of this law would be in violation of Title 30, chapter 14, part 1.

History: En. 18-521 by Sec. 21, Ch. 547, L. 1975; R.C.M. 1947, 18-521.

Does the identity theft passport provision (section 2) about who can receive an ID theft passport need to be changed to allow other state or local government agencies make use of the passport (child support enforcement, revenue or tax agencies)?

46-24-220. Identity theft passport -- application -- issuance. (1) The attorney general, in cooperation with any law enforcement agency, may issue an identity theft passport to a person who is a victim of identity theft in this state and who has filed a police report citing that the person is a victim of a violation of 45-6-332. A victim who has filed a report of identity theft with a law enforcement agency may apply for an identity theft passport through any law enforcement agency. The agency shall send a copy of the police report and the application to the attorney general. The attorney general shall process the application and supporting report and may issue the victim an identity theft passport in the form of a card or certificate.

(2) (a) A victim of identity theft may present the victim's identity theft passport issued under subsection (1) to any of the following:

- (i) a law enforcement agency to help prevent the victim's arrest or detention for an offense committed by someone other than the victim who is using the victim's identity;

(ii) any of the victim's creditors to aid in the creditors' investigation and establishment of whether fraudulent charges were made against accounts in the victim's name or whether accounts were opened using the victim's identity; ~~or~~

(iii) a consumer reporting agency, as defined in 31-3-102, which shall accept the passport as the direct conveyance of a dispute under 31-3-124 and shall include notice of the dispute in all future reports that contain disputed information caused by identity theft; or

(iv) any state or local government agency that receives social security numbers or other personal identifying information.

(b) Acceptance of the identity theft passport presented by the victim to a law enforcement agency or creditor pursuant to subsection (2)(a) is at the discretion of the law enforcement agency or creditor. A law enforcement agency or creditor may consider the surrounding circumstances and available information regarding the offense of identity theft pertaining to the victim.

(3) An application made with the attorney general pursuant to subsection (1), including any supporting documentation, is confidential criminal justice information, as defined in 44-5-103, and must be disseminated accordingly.

(4) The attorney general shall adopt rules to implement this section. The rules must include a procedure by which the attorney general is assured that an identity theft passport applicant has an identity theft claim that is legitimate and adequately substantiated.

* * * * *

Washington State legislators in 2006 received but did not act on HB 3067 (substitute bill H 4713), containing the following provisions intended to improve cooperation in deterring identity theft by offering immunity from liability to groups that assist in a fraud alert network. The financial industry in general considers the Gramm-Leach-Bliley Act as a reason for financial institutions not to provide alerts/information.

NEW SECTION. Sec. 3 (1) This chapter provides immunity from liability for financial institutions and merchants who participate in a fraud alert network and who comply with the provisions of this chapter and the standards of use set forth in this subsection as follows:

(a) Access to the fraud alert network is private and limited to financial institutions, merchants, and law enforcement agencies;

(b) The sole purpose of the fraud alert network is to share information among financial institutions, merchants, and law enforcement agencies to prevent, detect, deter, and assist in the prosecution of financial crimes;

(c) Information furnished to the fraud alert network consists of: (i) Descriptions of recent actual or suspected financial crimes perpetrated against or coming to the attention of the participant furnishing the information; (ii) descriptions, photographs, images, reproductions, fingerprints, identifying features, traits, habits, background, or other data related to identifying the person, persons, or groups suspected of committing, aiding, or abetting financial crimes; (iii) identifying information regarding methods of operation, devices, tricks, or schemes used by persons suspected of financial crimes; (iv) descriptions, photographs, images, or reproductions of writings, communications, checks, and personal identification used in connection with suspected financial crimes; (v) descriptions, photographs, images, or reproductions of vehicles, license plates, weapons, devices, or other things used in connection with suspected financial crimes; (vi) cautionary statements regarding suspects, for example a statement that a suspect is armed and dangerous; and (vii) other information that allows participants to identify financial crimes, to identify persons suspected in connection with financial crimes, to assist in the apprehension of persons suspected of financial crimes, or to contact others for further information;

(d) Information furnished to the fraud alert network may not consist of delinquent payment information, nor may it consist of other similar evidence of a person's credit history, except in the exceptional instance where such evidence is an integral part of information provided under (c) of this subsection and is reasonably believed to be related to a financial crime;

(e) Information posted must be accessible only to designated employees, and the distribution of information is limited to those employees, attorneys, and agents of participants who have job-related duties relevant to the use of such information in connection with preventing, detecting, deterring, or assisting in the prosecution of financial crimes;

(f) The fraud alert network has procedures reasonably calculated to ensure the security of the information obtained;

(g) Users of the fraud alert network are informed that the information obtained from the fraud alert network may not be

used to evaluate and make decisions about applications for loans, lines of credit, and credit cards;

(h) Information furnished pursuant to the fraud alert network is limited to statements of fact that the person furnishing the information reasonably believes to be true. However, in exigent circumstances, information may be furnished without such reasonable belief if the circumstances creating an emergency are described, and cautionary advice is provided regarding the limited knowledge of the person furnishing the information; and

(i) The fraud alert network has an operator that: (i) Employs procedures to promptly correct and erase information that the operator learns is erroneous or was submitted or posted to the fraud alert network not in compliance with this section; (ii) takes reasonable steps to limit access to the fraud alert network to financial institutions, merchants, and law enforcement agencies; and (iii) denies access to the fraud alert network to persons who are not financial institutions, merchants, or law enforcement agencies or who do not abide by the provisions of this chapter.

(2) Washington law governs the operation of a fraud alert network. A participant or law enforcement agency that participates in a fraud alert network in accordance with subsection (1) of this section, whether through furnishing, posting, communicating, or using information in connection thereto, has immunity from civil liability under the laws of the state of Washington and its political subdivisions and, to the extent the conflicts of law rules of any other jurisdiction refer to the law of the state of Washington, under the laws and rules of such other jurisdiction and its political subdivisions. However, this immunity does not apply to statutory violations.

(3) Any financial institution or merchant that makes a voluntary disclosure of any possible violation of law or regulation to a federal, state, or local government or agency in connection with information obtained from a fraud alert network is immune from civil liability for such disclosure or for any failure to provide notice of such disclosure to the person who is the subject of or identified in the disclosure, under the laws and rules of the state of Washington and its political subdivisions and, to the extent the conflicts of law rules of any other jurisdiction refer to the law of the state of Washington, under the laws and rules of such other jurisdiction and its political subdivisions, and under any contract or other legally enforceable agreement.

NEW SECTION. Sec. 4 The immunity under section 3 of this act does not apply to any participant that:

(1) Provides false information to the fraud alert network that the participant does not reasonably believe to be true. However, in exigent circumstances, information may be furnished without that reasonable belief if the circumstances creating an emergency are described, and cautionary advice is provided regarding the limited knowledge of the person furnishing the information;

(2) Fails to maintain review procedures to remove or correct false, outdated, incomplete, or erroneous information furnished by it to the fraud alert network;

(3) Fails to maintain procedures to ensure that information obtained from the fraud alert network is provided only to employees, attorneys, or agents who have job-related duties relevant to the use of such information;

(4) Uses information obtained from the fraud alert network to evaluate and make decisions about applications for loans, lines of credit, and credit cards;

(5) Uses information for a purpose other than preventing, detecting, deterring, and assisting in the prosecution of financial crimes;

(6) Uses, reproduces, distributes, publishes, forwards, shares, sells, or communicates any information obtained from the fraud alert network for a commercial purpose, such as for advertising or marketing; or

(7) Provides, sells, or resells access to the fraud alert network to a person who is not a participant.

NEW SECTION. Sec. 5 (1) It is the intent of this chapter to encourage the sharing of information consistent with federal law.

(2) A fraud alert network is intended to protect against or prevent actual or potential fraud and unauthorized transactions, claims, or other liability, and is intended to be exempt from the privacy disclosure requirements of the Gramm-Leach-Bliley Act of 1999.

(3) It is intended that so long as the participants comply with this chapter, the provisions of the Washington fair credit reporting act, chapter 19.182 RCW, do not apply to the fraud alert network. However, if it is determined that the federal fair credit reporting act applies to a fraud alert network, the Washington fair credit reporting act also applies.

The following is the Washington State provision regarding harassing phone calls by collection agencies:

RCW 19.16.250 Prohibited practices.

No licensee or employee of a licensee shall:

- (1) Directly or indirectly aid or abet any unlicensed person to engage in business as a collection agency in this state or receive

compensation from such unlicensed person: PROVIDED, That nothing in this chapter shall prevent a licensee from accepting, as forwarder, claims for collection from a collection agency or attorney whose place of business is outside the state.

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

(3) Publish or post or cause to be published or posted, any list of debtors commonly known as "bad debt lists" or threaten to do so. For purposes of this chapter, a "bad debt list" means any list of natural persons alleged to fail to honor their lawful debts. However, nothing herein shall be construed to prohibit a licensee from communicating to its customers or clients by means of a coded list, the existence of a check dishonored because of insufficient funds, not sufficient funds or closed account by the financial institution servicing the debtor's checking account: PROVIDED, That the debtor's identity is not readily apparent: PROVIDED FURTHER, That the licensee complies with the requirements of subsection (9)(e) of this section.

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

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

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

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

(8) Give or send to any debtor or cause to be given or sent to any debtor, any notice, letter, message, or form which represents or implies that a claim exists unless it shall indicate in clear and legible type:

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

(b) The name of the original creditor to whom the debtor owed the claim if such name is known to the licensee or employee: PROVIDED, That upon written request of the debtor, the licensee shall make a reasonable effort to obtain the name of such person and provide this name to the debtor;

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

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

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

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

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

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

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

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

(a) A licensee or employee of a licensee may inform a credit reporting bureau of the existence of a claim: PROVIDED, That if the licensee or employee of a licensee reports a claim to a credit reporting bureau, the licensee shall upon receipt of written notice from the debtor that any part of the claim is disputed, forward a copy of such written notice to the credit reporting bureau;

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

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

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

(ii) The debtor has not in writing to the licensee disputed any part of the claim: PROVIDED, That the licensee or employee may only

communicate the existence of a claim which has not been reduced to judgment to the debtor's employer once unless the debtor's employer has agreed to additional communications.

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

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

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

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

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

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

(10) Threaten the debtor with impairment of his credit rating if a claim is not paid.

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

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

(a) It is made with a debtor or spouse in any form, manner, or place, more than three times in a single week;

(b) It is made with a debtor at his or her place of employment more than one time in a single week;

(c) It is made with the debtor or spouse at his or her place of residence between the hours of 9:00 p.m. and 7:30 a.m.

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

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

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

(16) Send any telegram or make any telephone calls to a debtor or concerning a debt or for the purpose of demanding payment of a claim or seeking information about a debtor, for which the charges are payable by the addressee or by the person to whom the call is made.

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

(18) Collect or attempt to collect in addition to the principal amount of a claim any sum other than allowable interest, collection costs or handling fees expressly authorized by statute, and, in the case of suit, attorney's fees and taxable court costs. A licensee may collect or attempt to collect collection costs and fees, including contingent collection fees, as authorized by a written agreement or contract, between the licensee's client and the debtor, in the collection of a commercial claim. The amount charged to the debtor for collection services shall not exceed thirty-five percent of the commercial claim.

(19) Procure from a debtor or collect or attempt to collect on any written note, contract, stipulation, promise or acknowledgment under which a debtor may be required to pay any sum other than principal, allowable interest, except as noted in subsection (18) of this section, and, in the case of suit, attorney's fees and taxable court costs.

(20) Upon notification by a debtor that the debtor disputes all debts arising from a series of dishonored checks, automated clearinghouse transactions on a demand deposit account, or other preprinted written instruments, initiate oral contact with a debtor more than one time in an attempt to collect from the debtor debts arising from the identified series of dishonored checks, automated clearinghouse transactions on a demand deposit account, or other preprinted written instruments when: (a) Within the previous one hundred eighty days, in response to the licensee's attempt to collect the initial debt assigned to the licensee and arising from the identified series of dishonored checks, automated clearinghouse transactions on a demand deposit account, or other preprinted written instruments, the debtor in writing notified the licensee that the debtor's checkbook or other series of preprinted written instruments was stolen or fraudulently created; (b) the licensee has received from the debtor a certified copy of a police report referencing the theft or fraudulent creation of the checkbook, automated

clearinghouse transactions on a demand deposit account, or series of preprinted written instruments; (c) in the written notification to the licensee or in the police report, the debtor identified the financial institution where the account was maintained, the account number, the magnetic ink character recognition number, the full bank routing and transit number, and the check numbers of the stolen checks, automated clearinghouse transactions on a demand deposit account, or other preprinted written instruments, which check numbers included the number of the check that is the subject of the licensee's collection efforts; (d) the debtor provides, or within the previous one hundred eighty days provided, to the licensee a legible copy of a government-issued photo identification, which contains the debtor's signature and which was issued prior to the date of the theft or fraud identified in the police report; and (e) the debtor advised the licensee that the subject debt is disputed because the identified check, automated clearinghouse transaction on a demand deposit account, or other preprinted written instrument underlying the debt is a stolen or fraudulently created check or instrument.

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