

CHAPTER 194

[House Bill No. 828]

COLLECTION AGENCIES—LICENSE SUSPENSION—CIVIL, MONETARY PENALTY

AN ACT Relating to collection agencies; amending section 3, chapter 253, Laws of 1971 ex. sess. as amended by section 1, chapter 20, Laws of 1973 1st ex. sess. and RCW 19.16.120; amending section 8, chapter 20, Laws of 1973 1st ex. sess. and RCW 19.16.351; amending section 27, chapter 253, Laws of 1971 ex. sess. as amended by section 4, chapter 20, Laws of 1973 1st ex. sess. and RCW 19.16.360; and prescribing penalties.

Be it enacted by the Legislature of the State of Washington:

Section 1. Section 3, chapter 253, Laws of 1971 ex. sess. as amended by section 1, chapter 20, Laws of 1973 1st ex. sess. and RCW 19.16.120 are each amended to read as follows:

In addition to other provisions of this chapter, any license issued pursuant to this chapter or any application therefor may be denied, not renewed, ~~((suspended; or))~~ revoked, or suspended, or in lieu of or in addition to suspension a licensee may be assessed a civil, monetary penalty in an amount not to exceed one thousand dollars:

(1) If an individual applicant or licensee is less than eighteen years of age or is not a resident of this state.

(2) If an applicant or licensee is not authorized to do business in this state.

(3) If the application or renewal forms required by this chapter are incomplete, fees required under RCW 19.16.140 and 19.16.150 have not been paid, and the surety bond or cash deposit or other negotiable security acceptable to the director required by RCW 19.16.190 has not been filed or renewed or is canceled.

(4) If any individual applicant, owner, officer, director, or managing employee of a nonindividual applicant or licensee:

(a) Shall have knowingly made a false statement of a material fact in any application for a collection agency license or renewal thereof, or in any data attached thereto and two years have not elapsed since the date of such statement;

(b) Shall have had a license to engage in the business of a collection agency denied, not renewed, suspended, or revoked by this state, any other state, or foreign country, for any reason other than the nonpayment of licensing fees or failure to meet bonding requirements: PROVIDED, That the terms of this subsection shall not apply if:

(i) Two years have elapsed since the time of any such denial, nonrenewal, or revocation; or

(ii) The terms of any such suspension have been fulfilled;

(c) Has been convicted in any court of any felony involving forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, or conspiracy to defraud and is incarcerated for that offense or five years have not elapsed since the date of such conviction;

(d) Has had any judgment entered against him in any civil action involving forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, or conspiracy to defraud and five years have not elapsed since the date of the entry of the final judgment in said action: PROVIDED, That in no event shall a license be issued unless the judgment debt has been discharged;

(e) Has had his license to practice law suspended or revoked and two years have not elapsed since the date of such suspension or revocation, unless he has been relicensed to practice law in this state;

(f) Has had any judgment entered against him or it under the provisions of RCW 19.86.080 or 19.86.090 involving a violation or violations of RCW 19.86.020 and two years have not elapsed since the entry of the final judgment: PROVIDED, That in no event shall a license be issued unless the terms of such judgment, if any, have been fully complied with: PROVIDED FURTHER, That said judgment shall not be grounds for denial, suspension, nonrenewal, or revocation of a license unless the judgment arises out of and is based on acts of the applicant, owner, officer, director, managing employee, or licensee while acting for or as a collection agency;

(g) Has petitioned for bankruptcy, and two years have not elapsed since the filing of said petition;

(h) Shall be insolvent in the sense that his or its liabilities exceed his or its assets or in the sense that he or it cannot meet his or its obligations as they mature;

(i) Has failed to pay any civil, monetary penalty assessed in accordance with RCW 19.16.351 or 19.16.360 within ten days after the assessment becomes final;
or

(j) Has knowingly failed to comply with, or violated any provisions of this chapter or any rule or regulation issued pursuant to this chapter, and two years have not elapsed since the occurrence of said noncompliance or violation.

Any person who is engaged in the collection agency business as of January 1, 1972 shall, upon filing the application, paying the fees, and filing the surety bond or cash deposit or other negotiable security in lieu of bond required by this chapter, be issued a license hereunder.

Sec. 2. Section 8, chapter 20, Laws of 1973 1st ex. sess. and RCW 19.16.351 are each amended to read as follows:

The board, in addition to any other powers and duties granted under this chapter:

(1) May adopt, amend, and rescind such rules and regulations for its own organization and procedure and such other rules and regulations as it may deem necessary in order to perform its duties hereunder.

(2) When an applicant or licensee has requested a hearing as provided in RCW 19.16.360 the board shall meet and after notice and hearing may deny any application for a license hereunder, and may fail to renew, suspend, or revoke any license issued hereunder, if the applicant or licensee has failed to comply with or violated any provision of this chapter or any rule or regulation issued pursuant to this chapter. In its discretion, the board may assess a civil, monetary penalty against a licensee in an amount not to exceed one thousand dollars in lieu of or in addition to suspension. It shall be the duty of the board within thirty days after the last day of hearing to notify the appellant of its decision.

(3) May inquire into the needs of the collection agency business, the needs of the director, and the matter of the policy of the director in administering this chapter, and make such recommendations with respect thereto as, after consideration, may be deemed important and necessary for the welfare of the state, the welfare of the public, and the welfare and progress of the collection agency business.

(4) Upon request of the director, confer and advise in matters relating to the administering of this chapter.

(5) May consider and make appropriate recommendations to the director in all matters referred to the board.

(6) Upon his request, confer with and advise the director in the preparation of any rules and regulations to be adopted, amended, or repealed.

(7) May assist the director in the collection of such information and data as the director may deem necessary to the proper administration of this chapter.

Sec. 3. Section 27, chapter 253, Laws of 1971 ex. sess. as amended by section 4, chapter 20, Laws of 1973 1st ex. sess. and RCW 19.16.360 are each amended to read as follows:

(1) Whenever the director shall have reasonable cause to believe that grounds exist for denial, ~~((suspension;))~~ nonrenewal, ~~((or))~~ revocation or suspension of a license issued or to be issued under this chapter, or in lieu of or in addition to suspension that a licensee should be assessed a civil, monetary penalty not to exceed one thousand dollars, he shall notify the applicant or licensee in writing by certified or registered mail, with return receipt requested, stating the grounds upon which it is proposed that the license be denied, ~~((suspended;))~~ revoked, ~~((or))~~ not renewed, or suspended and upon which any monetary penalty is going to be assessed and the amount of the penalty.

(2) Within thirty days from the receipt of notice of the alleged grounds for denial, ~~((suspension;))~~ revocation, ~~((or))~~ lack of renewal, or suspension or for the monetary penalty to be assessed in lieu of or in addition to suspension, the applicant or licensee may serve upon the director a written request for hearing before the board. Service of a request for a hearing shall be by certified mail and shall be addressed to the director at his office in Thurston county. Upon receiving a request for a hearing, the director shall fix a date for which the matter may be heard by the board, which date shall be not less than thirty days from the receipt of the request for such hearing. If no request for hearing is made within the time specified, the license shall be deemed denied, ~~((suspended;))~~ revoked, or not renewed or the license shall be deemed suspended and/or the civil, monetary penalty shall be deemed assessed.

(3) Whenever a licensee who has made timely and sufficient application for the renewal of a license, receives notice from the director that it is proposed that his or its license is not to be renewed, and said licensee requests a hearing under subsection (2) of this section, the licensee's current license shall not expire until the last day for seeking review of the board's decision expires or if judicial review of the board's decision is sought until final judgment has been entered by the superior court, or in the event of an appeal or appeals, until final judgment has been entered by the last appellate court in which review has been sought.

Passed the House April 19, 1977.

Passed the Senate May 25, 1977.

Approved by the Governor June 8, 1977.

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