



STATE OF WASHINGTON
DEPARTMENT OF LICENSING

PO Box 9012

Olympia, Washington 98507-9027

**WASHINGTON STATE
COLLECTION AGENCY BOARD
SPECIAL EMERGENCY BOARD MEETING AGENDA**

Due to the current state of emergency caused by the outbreak of Covid-19, there is a need for expedited action by this Board. The presiding officer has provided for an open public meeting via phone conference while the Physical Location requirements of the Open Public Meetings act are suspended during such emergency pursuant to RCW 42.30.070.

DATE: Special Board Meeting - Thursday, June 18, 2020

TIME: 3:15 p.m.

LOCATION: Teleconference

Board members participating via conference call. Visitors please call 360-407-3780, Pin 660795#.

ATTENTION: Board meetings are open to the public except when business calls for an Executive Session. During Executive Session all guests will be excused. Start times are subject to change by the Board Chair.

1. Call to Order

- 1.1. Introductions
- 1.2. Order Of Agenda

2. New Business

- 2.1 Emergency Rule Making - WAC 308-29-010(2) – Clarifying Branch Offices
 - WAC 308-29-085 Remote Work duties and Security Requirements

- 2.2 Permanent Rule Making - WAC 308-29-010(2) – Clarifying Branch Offices
 - WAC 308-29-085 Remote Work duties and Security Requirements

3. Adjourn Meeting

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Emergency Rulemaking

Background: As per the Governor's proclamations to keep Washington residents safe and healthy during the Covid-19 Pandemic and consistent with other business and professions in this State that are able to perform work from home this emergency rule is proposed with the intent to offer licensees the ability to take precautions deemed necessary to avoid the risk of exposure and support the return of commerce in all business sectors.

This emergency rule is intended to allow employees of collection agencies to work remotely, but it does not alter any requirements of the Collection Agency Act in regards to collection activity. As an emergency rule if approved it will expire in 120 days but can be extended once for another 120 days if the board is actively engaged in rulemaking.

Recommendation: The Board review and consider making a motion to approve the attached proposed rule revision.

Submitted by Board Staff
June 16, 2020

Purposed REVISIONS to WAC definitions

WAC 308-29-010 Definitions.

- (1) Words and terms used in these rules have the same meaning as each has under chapter 19.16 RCW unless otherwise clearly provided in these rules, or the context in which they are used in these rules clearly indicates that they be given some other meaning.
- (2) **“Remote work” Is the practice of working from home or other alternative location through the use of technology which allows the employee to access normal work material (email, telephone, electronic documents, etc.) Remote work may be scheduled or on an ad hoc basis.**
- (3) "Branch office" is any location physically separated from the principal place of business of a licensee where the licensee conducts any activity meeting the criteria of a collection agency or out-of-state collection agency as defined in RCW 19.16.100.
 - a. **An employee of a licensee shall not be deemed a “collection agency” or a “branch office” as defined in chapter 19.16.100(5)(a) RCW and the employee need not have a license to perform collection activities on behalf of the collection agency, whether working in the collection agency office, or working remotely.**
- (4) "Repossession services" conducted by any person shall not be deemed a collection agency as defined in RCW 19.16.100, unless such person is repossessing or is attempting to repossess property for a third party and is authorized to accept cash or any other thing of value from the debtor in lieu of actual repossession.
- (5) "Managing employee" is an individual who has the general power to exercise judgment and discretion in acting on behalf of the licensee on an overall or partial basis and who does not act in an inferior capacity under close supervision or direction of a superior authority (as distinguished from a non-managing employee who is told what to do and has no discretion about what he or she can and cannot do and who is responsible to an immediate superior).

Proposed WAC to create guardrails to ensure employees working remotely are conducting business in a manner consistent with collection agency laws and rules and protect data

308-29-085 (new) Remote Work Requirements.

Collection Agencies that allow remote working must ensure that following requirements are met:

- 1) If the collection agency allows remote working, a record of which employees have been assigned to working remotely must be maintained and kept current.
- 2) Remote working employees must comply with all applicable laws and regulations as outlined in chapter 19.16 RCW, chapter 18.235 RCW and chapter 308-29 WAC.
- 3) Collection agencies and their employees must have a written IT security policy that outlines the security protocols in place safeguarding the company and customer data, information and electronic and physical records, to protect them against unauthorized or accidental access, use, modification, duplication, destruction or disclosure. Physical

- records must be stored and maintained at the business location and may not be stored at the remote working location.
- 4) The IT security policy requirements must include provisions for the remote working employee to access the collection agency's secure system from any out-of-office device the employee uses through the use of a virtual private network "VPN" or other system that requires passwords, frequent password changes, identification authentication authorization, multi-factor authentication, data encryption, and/or account lockout implementation. The collection agency is responsible to maintain any updates or other requirements in order to keep information and devices secure.
 - 5) Collection agencies must record and monitor all calls initiated or received by their employees while employees are working remotely and must maintain copies of these recordings and make them available for inspection upon request.
 - 6) All calls must comply with chapter 19.16.250(13)(c),(18), and (19) RCW;.
 - 7) Neither the employee nor the collection agency shall conduct any activity that would indicate or tend to indicate the employee is performing collection agency business from an unlicensed location. Such acts include but are not limited to:
 - a) Advertising in any form, including business cards and social media, an unlicensed address or personal telephone or facsimile number associated to the unlicensed location;
 - b) Meeting consumers at, or having consumers come, to an unlicensed location;
 - c) Holding out in any manner, directly or indirectly, by the employee or collection agency, an address that would suggest or convey to a consumer that the location is a licensed collection agency or branch, including receiving official mail directly, or permanently storing books or records at the remote location.

Purpose of Rule Change

The purpose of the rule change is to offer licensees and their staff the ability to take precautions deemed necessary to avoid the risk of exposure to communicable illnesses and support the return of commerce in all business sectors. This rule change will provide remote working options to employees of Collection Agencies

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Proposed Rules Update

Background: Agenda Item 2.1 addresses consideration of an emergency rule to allow Collection Agency employees to work remotely. Emergency Rules are limited to 120 days and may be extended for an additional 120 days if permanent rulemaking is in progress.

Permanent Rulemaking typically takes several months to complete and includes multiple steps including public input opportunities and filings with the Code Revisers Office. The process is initiated by filing a CR 101 indicating an intent to conduct rule making.

If the board approves an emergency rule, a follow up step would be to direct staff to file a CR-101 to officially start the permanent rule making process. Staff would then draft language to present to the board at a future board meeting before filing the CR-102. Throughout the process staff would solicit input from stakeholders interested in the topic. Prior to filing the CR-103 with the Code Revisers Office the board would conduct a public hearing to solicit feedback regarding the proposed rules.

Recommendation: The Board to make a motion to file the CR-101 to officially start the rule making process to address consideration of a rule to allow Collection Agency employees to work remotely.

Submitted by Board Staff
June 16, 2020