

Wyoming Debt Collection Laws

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[Harrington Law Firm, P.C.](#) is owned by Larry W. Harrington. He obtained his Juris Doctorate Degree from the University of Wyoming and was admitted to the Wyoming State Bar in 1977. He began practice in Casper, Wyoming, in 1981, and began doing consumer collections for national credit-card lenders in 1982. The firm provides pre-legal collection, litigation, and post-suit collection in all twenty-three Wyoming counties. Its clients include national debt buyers, banks, credit card lenders, educational lenders, and medical providers. The firm uses JST Collect Max, and receives accounts from most national forwarders electronically through the "You've Got Claims" (YGC) network.. Larry Harrington is proud to be an active member of [the National Association of Retail Collection Attorneys](#) (NARCA).

I. State Debt Collection Laws

A. Limitation periods.

If the debtor resided in Wyoming at the time the cause of action accrued, the limitation period will be determined based upon whether the contract is in writing, in which case the limitation period is 10 years under [W.S. 1-3-105\(a\)](#), and eight (8) years upon a contract not in writing, either express or implied

Many debtors come to Wyoming to find work in the oil, gas and coal industries. Wyoming economy has been relatively good, with low unemployment in relationship to other states. Some come from other oil producing states such as Texas, Louisiana and Oklahoma. Others come from areas of low employment such as Michigan. Because of the transient nature of many Wyoming debtors, the applicable limitation period requires a determination of the residence of the debtor at the time the cause of action accrued.

Wyoming is a borrowing statute state. "If by the laws of the state or country where the cause of action arose the action is barred, it is also barred in this state". [W.S 1-3-117](#). If the debt accrued when the debtor resided in another state, the limitation period of that state may be applicable. However, the limitation period is extended for an additional 5 years, if under [W.S. 1-3-105\(a\)](#) "the cause of action accrued before the debtor became a resident of Wyoming," and is not yet barred where the cause of action accrued.

B. Bad Checks.

[Wyoming statute 1-1-115](#) requires a demand letter to be sent by United States Postal Service with a Certificate of Mailing to the address shown on the check or to his last known address, or personally served pursuant to the Wyoming Rules of Civil Procedure. The collection fee may not exceed thirty dollars (\$30.00).

If the check is not paid within thirty (30) days following the date of a written demand, the drawer is liable to the holder of the check for three (3) times the amount of the check, but in no case less than one hundred dollars (\$100.00), a collection fee of thirty dollars (\$30.00), and court costs.

In extraordinary cases, including cases in which the court determines that the party who wrote the check has raised dilatory or bad faith defenses, the court may award the prevailing party reasonable attorney fees.

C. General Garnishment Exemptions

Money from certain sources is exempt from being seized by execution and garnishment under [W.S. 1-20-106](#), and the Defendant must bring itself under an applicable exemption. Benefits that are protected by the State include Social Security benefits, Veteran's benefits, black lung benefits, aid to families with dependent children and general assistance payments, federal civil service and state retirement system benefits, worker's compensation benefits, unemployment compensation benefits, homestead law, personal articles and articles used for carrying on a trade, and other exemptions as provided by law.

The request for exemptions must be filed within ten (10) days after the seizure of property, funds or wages. If no property is seized or garnished, the defendant is not entitled to a hearing.

Wyoming follows Federal law, 15 USC 1673, for calculating what disposable income is subject to: The Maximum allowable garnishment may not exceed (1) 25 per centum of his disposable earnings for that week, or (2) the amount by which his disposable earnings for that week exceed thirty times the Federal minimum hourly wage prescribed by section 206(a)(1) of Title 29 in effect at the time the earnings are payable, whichever is less.

II. Debt Collection Licensing and Bonding

A. Creditors.

Collection in Wyoming is regulated by the Wyoming Collection Agency Board. The term “collection agency” does not include “[a]ny person whose collection activities are carried on in the true name of the creditor, and are confined to the operation of a business other than a collection agency, including but not limited to banks, trust companies, savings and loan associations, abstract companies doing an escrow business, real estate brokers, attorneys, insurance companies, credit unions or loan or finance companies. [W.S. 33-11-101](#).

B. Collection Agencies

Collection agencies must be licensed under [W.S. 33-11-102](#). The agency must have “an established office in Wyoming with a bona fide resident of Wyoming as a resident manager of the office.” The “resident managers shall pass an examination as prescribed by the board to determine the fitness of the resident manager to conduct a collection agency business.” There is a one hundred dollar (\$100.00) fee for the examination. [W.S. 33-11-107](#) The agency must be bonded “by a surety company licensed and authorized to do business in Wyoming, in the sum of ten thousand dollars (\$10,000.00)... and shall run to the state of Wyoming and to any party who may be a claimant. [W.S. 33-11-108](#).

C. Debt Buyers

Collection within Wyoming by a debt buyer requires licensing by the Wyoming Collection Agency Board. The definition of “Collection agency” in Wyoming includes any person who “[t]akes assignment of debts for the purpose of collecting such debts”. [W.S. 33-11-101](#). “No person shall conduct a collection agency or act as a debt collector ... within [Wyoming] without first having obtained a license...” [W.S. 33-11-102](#).

D. Lawyers not Licensed in Wyoming

The collection of debt in Wyoming by a lawyer not licensed in Wyoming appears to be proper, provided that courts are not involved, and that he does not advertise in Wyoming. *Pro hac vice* admission by courts is not required to send letters or make calls.

The Wyoming Collection Agency Board does not regulate attorneys. The term “collection agency” does not include attorneys. [W.S. 33-11-101](#). The Wyoming Rules of Professional Conduct for attorneys provides in Rule 5.5 that “regulation of attorneys by the Wyoming State Bar does not include that a lawyer admitted in another United States jurisdiction, and not disbarred or suspended from practice in any jurisdiction, may provide legal services in this jurisdiction that are provided to the lawyer's employer or its organizational affiliates and are not services for which the forum requires *pro hac vice* admission.”

“It shall be unlawful, and punishable as contempt of court, for any person not a member of the Wyoming

State Bar to hold himself out or advertise by whatsoever means as an attorney or counselor-at-law. [W.S. 33-5-117](#).

E. Practices Related to Consumer, commercial and secured transactions.

- a. As discussed previously, the Wyoming Collection Agency Board regulates collection of debt by debt collectors and solicitors. It has adopted the Fair Debt Collection Practices Act, as if fully stated in its regulations.
- b. Collection of e commercial debt is not regulated.

Secure versus unsecured matters. The Wyoming Uniform Commercial Code regulates collection of secured debt. Deficiency collection in Wyoming follows the UCC requiring notice of sale. [Wy Stat 34.1-9-613](#). A consumer is entitled to an explanation of the deficiency after the disposition of secured property [WY ST 34.1-9-616](#), and damages for failure to provide.

F. Court Filing Fees

Wyoming Circuit Courts hear small claims cases that do not exceed six thousand dollars (\$6,000.00) [W.S. 1-21-201](#). Circuit Courts also have jurisdiction under [W.S. 5-9-128](#) to hear other matters where the claim for relief is under \$50,000:

- (a) Each circuit court has exclusive original civil jurisdiction within the boundaries of the state for:
 - (i) An action where the payer for recovery is an amount not exceeding fifty thousand dollars (\$50,000.00), exclusive of court costs;
 - (ii) Actions to recover specific personal property the value of which does not exceed fifty thousand dollars (\$50,000.00), exclusive of court costs and shall be prosecuted in accordance with [W.S. 1-15-301 through 1-15-306](#);
 - (iii) Actions to foreclose or enforce a lien on or security interest in personal property perfected under the Uniform Commercial Code, [W.S. 34.1-1-101 through 34.1-10-104](#), when the amount claimed on the lien or security interest does not exceed fifty thousand dollars (\$50,000.00), exclusive of court costs;
 - (iv) Actions for small claims as provided by [W.S. 1-21-201 through 1-21-205](#);
 - (v) Actions for forcible entry or detainer as provided by [W.S. 1-21-1001 through 1-21-1016](#);
 - (vi) Actions to foreclose and enforce the following statutory liens only, when the amount claimed on the lien does not exceed fifty thousand dollars (\$50,000.00), exclusive of court costs:
 - Construction liens as provided by [W.S. 29-2-101 through 29-2-113](#);

- Liens for labor and materials as provided by [W.S. 29-4-101 and 29-4-102](#);
 - Liens for labor and services as provided by [W.S. 29-5-101 through 29-5-106 and 29-7-101 through 29-7-301](#); and
 - Liens for taxes as provided by [W.S. 39-15-108\(d\) and 39-16-108\(d\)](#).
- (vii) Actions to dispose of an abandoned vehicle as provided by [W.S. 31-13-112\(e\)](#), regardless of the value of the abandoned vehicle.

The court fee for filing new cases in circuit courts is forty dollars (\$40.00). Small claims filing fees are ten dollars (\$10.00). [W.S. 5-9-135](#).

The District Court fee for filing new cases, and opening closed cases is seventy dollars (\$70.00). [W.S. 5-3-206](#). There are no additional court fees for garnishments or executions. District courts have the discretion to charge additional fees for such things as the court library. The District Court fees may vary from county to county. They are set out in the table in with sheriff fees.

<u>CIRCUIT COURT: Below \$50000</u>	
All Circuit Courts	\$40.00
<u>DISTRICT COURT: \$50000 & Up</u>	<u>SHERIFF FEE *</u>
Albany County: \$70.00	\$50.00
Big Horn County: \$70.00	\$35.00
Carbon County: \$70.00	\$50.00
Campbell County: \$70.00	\$50.00
Converse County: \$70.00	\$35.00
Crook County: \$70.00	\$50.00
Fremont County: \$75.00	\$35.00
Goshen County: \$70.00	\$35.00
Hot Springs County: \$70.00	\$35.00
Johnson County: \$70.00	\$35.00
Laramie County: \$70.00	\$35.00
Lincoln County: \$70.00	\$35.00
Natrona County: \$90.00	\$35.00
Niobrara County: \$70.00	\$35.00
Park County: \$70.00	\$50.00
Platte County: \$70.00	\$35.00
Sheridan County: \$70.00	\$35.00
Sublette County: \$90.00	\$50.00

Sweetwater County: \$70.00	\$35.00
Teton County: \$95.00	\$35.00
Uinta County: \$70.00	\$35.00
Washakie County: \$70.00	\$35.00
Weston County: \$70.00	\$50.00

G. Process Serving Options

Papers may be served by county sheriffs or private process servers not to exceed fifty dollars (\$50.00) for the first three (3) attempts at service at a different time and date for each attempt. Thereafter, a fee not to exceed ten dollars (\$10.00) may be charged for each succeeding attempt. The fee shall be paid in advance if demanded by the sheriff from the party for whom the service is rendered. [W.S. 18-3-608](#).

The sheriff may charge a commission on executions. Commission on money collected on execution or other final process, where the same is collected without sale of property:

- For the first five hundred dollars (\$500.00), two percent (2%);
- For the second five hundred dollars (\$500.00), one percent (1%);
- For all over one thousand dollars (\$1,000.00), one-half of one percent (0.5%).

Where collection is made upon a sale of the property, the commissions allowed are as follows:

- On the first five hundred dollars (\$500.00), four percent (4%);
- On the second five hundred dollars (\$500.00), two percent (2%);
- On all over one thousand dollars (\$1,000.00), one percent (1%).

H. Attorney General Opinions

The Wyoming Attorney General has not brought any cases related to debt collection. It has issued one formal opinion. Attorney General Opinion No 99-010 states that a collection agency collecting a debt arising out of a consumer credit transaction is not authorized to collect any fees or charges unless the fees or charges are authorized by the Wyoming Uniform Consumer Credit code.

Specifically, AG Opinion 99-010 addressed 3 questions: 1. It stated that “the collection agency’s commission may not be claimed or collected from the consumer.” 2. “The collection agency may not, on its own and without the creditor’s consent or ratification, impose charges that the creditor has chosen not to impose, whether consciously or due to oversight.” 3. “Section 11(a) of Chapter 4 of the Regulations is

drawn nearly verbatim from the federal Fair Debt Collection Practices Act and should be interpreted consistently with its federal counterpart. Thus, there is no conflict between the regulation and the Code.”

On March 15, 2010, the Wyoming Attorney General issued a letter, referring back to AG Opinion 99-010, finding that convenience fees are not application fees, finance charges, specified additional charges, delinquency charges, deferral charges or limited collection charges. It state that “it does not appear that a collection agency operating in Wyoming is authorized to charge a convenience fee to a Wyoming debtor if the debt arose from a consumer credit transaction.”

III. Case Law Related to Debt Collection

Advertising: Collection Center may not advertise that it provides legal services. If the contested advertisement was an attempt to inform potential clients of the services authorized by [W.S. 33-11-114](#), it was misleading and has no constitutional protection. [Collection Ctr., Inc. v. State Through Collection Agency Bd., 809 P.2d 278, 280 \(Wyo. 1991\)](#)

Verification, overcharge, not contracting attorney: “To summarize, we hold the district court properly did have jurisdiction to review the judgment of the county court entered under the Small Claims Act; CheckRite violated [15 U.S.C. § 1692g](#) by failing to properly verify the alleged debt and to mail a copy of such verification to Johnson; CheckRite violated [15 U.S.C. § 1692f\(2\)](#) by asserting an amount that it was not entitled to recover while failing to maintain procedures designed to preclude the assertion of such an overcharge; CheckRite violated [15 U.S.C. § 1692c\(a\)\(2\)](#) by contacting Johnson instead of Johnson's attorney. We rule that CheckRite did not violate the FDCPA by using the name CheckRite instead of Statewide Collections, Inc. in its communication to Johnson or by failing to advise Johnson that it had returned the dishonored check to the retail store. Furthermore, we conclude that a consideration of the application of the Uniform Commercial Code and of the scope of [§ 1-1-115, W.S.1977](#), as it relates to attorney fees, are not pertinent to this appeal.” [Johnson v. Statewide Collections, Inc., 778 P.2d 93, 104 \(Wyo. 1989\)](#)

Suit by debt buyer, assignment, hearsay and business records: In a suit by a Debt Buyer, the debtor appealed. The Wyoming Supreme Court addressed many of the issues common to collections by debt buyers in [Alloway v. RT Capital, Inc., 2008 WY 123, 193 P.3d 713, 717-18 \(Wyo. 2008\)](#). Its findings include:

1. When a contract states it is assignable, it will be honored.
2. RT Capital had an affirmative obligation to present admissible evidence to establish the balance.

3. Pursuant to W.R.E. 802, the credit card statements were not admissible unless they fell within an exception to the hearsay rule.
4. The most obvious exception applicable to the statements is the business record exception in W.R.E. 803(6).
5. The court relied upon Ohioan case law, In [Great Seneca Financial v. Felty, 170 Ohio App.3d 737, 869 N.E.2d 30, 34 \(2006\)](#), to find that “exhibits can be admitted as business records of an entity, even when that entity was not the maker of those records, provided the other requirements of Rule 803(6) are met and the circumstances indicate that the records are trustworthy.”

Please be advised that this is not intended as legal advice. Changes to laws, statutes, regulations and costs can and do occur. We recommend that you contact an attorney for advice specific to your legal matters and your state.

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