

Subd. 4. RULES. Any board that regulates persons affected by this section may adopt rules for the purposes of this section.

Subd. 5. PENALTY. A person who violates this section is subject to disciplinary action by the board that regulates the person's practice.

Subd. 6. SCOPE OF PRACTICE. Nothing in this section expands or limits the scope of practice of registered physical therapists or occupational therapists certified by the American Occupational Therapy Certification Board.

Subd. 7. EXEMPTION. The provisions of subdivision 2 of this section do not apply to physicians and doctors of osteopathy licensed under chapter 147.

Sec. 2. **EFFECTIVE DATE.**

Section 1, subdivision 4, is effective the day following final enactment.

Presented to the governor May 17, 1993

Signed by the governor May 19, 1993, 4:38 p.m.

CHAPTER 294—H.F.No. 623

VETOED

CHAPTER 295—H.F.No. 1081

An act relating to commerce; regulating collection agencies; modifying prohibited practices; requiring notification to the commissioner upon certain employee terminations; repealing inconsistent surety bond and term and fee rules; regulating credit services organizations; modifying registration and bond requirements; modifying enforcement powers; amending Minnesota Statutes 1992, sections 332.37; 332.54, subdivision 1, and by adding subdivisions; 332.55; and 332.59; proposing coding for new law in Minnesota Statutes, chapter 332; repealing Minnesota Rules, parts 2870.1300; and 2870.1600.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 1992, section 332.37, is amended to read:

332.37 PROHIBITED PRACTICES.

No collection agency or collectors shall:

(1) in collection letters or publications, or in any communication, oral or written threaten wage garnishment or legal suit by a particular lawyer, unless it has actually retained the lawyer;

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(2) use or employ constables, sheriffs or any other officer authorized to serve legal papers in connection with the collection of a claim, except when performing their legally authorized duties;

(3) use or threaten to use methods of collection which violate Minnesota law;

(4) furnish legal advice or otherwise engage in the practice of law or represent that it is competent to do so;

(5) communicate with debtors in a misleading or deceptive manner by using the stationery of a lawyer, forms or instruments which only lawyers are authorized to prepare, or instruments which simulate the form and appearance of judicial process;

(6) exercise authority on behalf of a creditor to employ the services of lawyers unless the creditor has specifically authorized the agency in writing to do so and the agency's course of conduct is at all times consistent with a true relationship of attorney and client between the lawyer and the creditor;

(7) publish or cause to be published any list of debtors except for credit reporting purposes, use shame cards or shame automobiles, advertise or threaten to advertise for sale any claim as a means of forcing payment thereof, or use similar devices or methods of intimidation;

(8) refuse to return any claim or claims and all valuable papers deposited with a claim or claims upon written request of the creditor, claimant or forwarder after tender of the amounts due and owing to the agency within 30 days after the request; refuse or intentionally fail to account to its clients for all money collected within 30 days from the last day of the month in which the same is collected; or, refuse or fail to furnish at intervals of not less than 90 days upon written request of the claimant or forwarder, a written report upon claims received from the claimant or forwarder;

(9) operate under a name or in a manner which implies that the agency is a branch of or associated with any department of federal, state, county or local government or an agency thereof;

(10) commingle money collected for a customer with the agency's operating funds or use any part of a customer's money in the conduct of the agency's business;

(11) transact business or hold itself out as a debt prorater, debt adjuster, or any person who settles, adjusts, prorates, pools, liquidates or pays the indebtedness of a debtor, unless there is no charge to the debtor, or the pooling or liquidation is done pursuant to court order or under the supervision of a creditor's committee;

(12) violate any of the provisions of the Fair Debt Collection Practices Act of 1977 while attempting to collect on any account, bill or other indebtedness;

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(13) communicate with a debtor by use of a recorded message utilizing an automatic dialing announcing device unless the recorded message is immediately preceded by a live operator who discloses prior to the message the name of the collection agency and the fact the message intends to solicit payment and the operator obtains the consent of the debtor to hearing the message; or

(14) in collection letters or publications, or in any communication, oral or written, imply or suggest that health care services will be withheld in an emergency situation;

(15) when a debtor has a listed telephone number, enlist the aid of a neighbor or third party to request that the debtor contact the licensee, except a person who resides with the debtor or a third party with whom the debtor has authorized the licensee to place the request. This clause does not apply to a call back message left at the debtor's place of employment which is limited to the licensee's telephone and the collector's name;

(16) when attempting to collect a debt, fail to provide the debtor with the full name of the collection agency as it appears on its license;

(17) collect any money from a debtor that is not reported to a creditor or fail to return any amount of overpayment from a debtor to the debtor or to the state of Minnesota pursuant to the requirements of chapter 345;

(18) accept currency or coin as payment for a debt without issuing an original receipt to the debtor and maintain a duplicate receipt in the debtor's payment records; or

(19) when initially contacting a Minnesota debtor by mail, fail to include a disclosure on the contact notice, in a type size or font which is equal to or larger than the largest other type of type size or font used in the text of the notice. The disclosure must state: "This collection agency is licensed by the Minnesota Department of Commerce."

Sec. 2. [332.385] NOTIFICATION TO COMMISSIONER.

The collection agency licensee shall notify the commissioner of any employee termination within ten days of the termination if it is in whole or in part based on a violation of this chapter.

Sec. 3. Minnesota Statutes 1992, section 332.54, subdivision 1, is amended to read:

Subdivision 1. **FILING.** It is unlawful for any credit services organization to offer, advertise, or execute or cause to be executed by a consumer any contract in this state unless the credit services organization at the time of the offer, advertisement, sale, or execution of a contract has been properly registered with the commissioner. ~~The commissioner may charge the credit services organization a reasonable fee not exceeding \$100 to cover the costs of filing.~~

New language is indicated by underline, deletions by ~~strikeout~~.

Sec. 4. Minnesota Statutes 1992, section 332.54, is amended by adding a subdivision to read:

Subd. 6. TERM. Registration issued or renewed by the commissioner of commerce under sections 332.52 to 332.60 expires on June 30 of each year.

Sec. 5. Minnesota Statutes 1992, section 332.54, is amended by adding a subdivision to read:

Subd. 7. FEES. The fee for a credit services organization's registration is \$100 for issuance or renewal for each location of business.

Sec. 6. Minnesota Statutes 1992, section 332.55, is amended to read:

332.55 BOND.

A credit services organization must submit to the commissioner at the time of registration, ~~a~~ an annual surety bond of \$10,000 ~~and in which, expiring on June 30 of each year, by an insurance company, which is authorized by the state of Minnesota to transact the business of fidelity and surety insurance, is a surety.~~ The credit services organization must be the obligor. The bond must benefit the state of Minnesota and any person who may have a cause of action against the obligor arising out of the obligor's activities as a credit services organization. The commissioner may accept a deposit in cash, or securities that may be legally purchased by savings banks or for trust funds of an aggregate market value equal to the bond requirement, in lieu of the surety bond. The cash or securities must be deposited with the state treasurer.

Sec. 7. Minnesota Statutes 1992, section 332.59, is amended to read:

332.59 VIOLATIONS.

Any person who violates sections 332.52 to 332.58 is guilty of a misdemeanor. ~~The commissioner of commerce may bring a civil action or proceeding against a person who violates any provision of sections 332.52 to 332.58.~~ A violation of sections 332.52 to 332.58 is a violation of section 325F.69, subdivision 1, and the provisions of section 8.31 apply. Sections 332.52 to 332.58 do not limit or restrict the right of any person to pursue any appropriate remedy for a violation of sections 332.52 to 332.58. The provisions of section 45.027 apply to the enforcement of sections 332.52 to 332.58.

Sec. 8. RULES REPEALER.

Minnesota Rules, parts 2870.1300; and 2870.1600, are repealed.

Presented to the governor May 17, 1993

Signed by the governor May 20, 1993, 3:20 p.m.

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