

section 563.01 by an inmate seeking to proceed as a plaintiff. The action shall be dismissed without prejudice on a finding that the allegation of financial inability to pay fees, costs, and security for costs is false. The action shall be dismissed with prejudice if it is frivolous or malicious. The court shall provide a copy of its order dismissing an action or claim under this section to the commissioner of corrections.

(b) In determining whether an action is frivolous or malicious, the court may consider whether:

(1) the claim has no arguable basis in law or fact; or

(2) the claim is substantially similar to a previous claim that was brought against the same party, arises from the same operative facts, and in which there was an action that operated as an adjudication on the merits.

(c) An order dismissing the action or specific claims asserted in the action may be entered before or after service of process, and with or without holding a hearing.

(d) If the court dismisses a specific claim in the action, it shall designate any issue and defendant on which the action is to proceed without the payment of fees and costs. An order under this subdivision is not subject to interlocutory appeal.

(e) To determine whether the allegation of financial inability to pay fees, costs, and security for costs is false or whether the claim is frivolous or malicious, the court may:

(1) request the commissioner of corrections to file a report under oath responding to the issues described in paragraph (b), clause (1) or (2);

(2) order the commissioner of corrections to furnish information on the balance in the inmate's inmate account, if authorized by the inmate under subdivision 2; or

(3) hold a hearing at the correctional facility where the inmate is confined on the issue of whether the allegation of financial inability to pay is false, or whether the claim is frivolous or malicious.

Presented to the governor April 14, 1997

Signed by the governor April 16, 1997, 10:12 a.m.

CHAPTER 34—H.F.No. 2132

An act relating to taxation; providing an extension of time to file and pay certain state taxes for residents in a flood disaster area.

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

Section 1. RESIDENTS OF FLOOD DISASTER AREA; EXTENSIONS OF TIME RELATING TO TAXES.

Subdivision 1. INCOME TAX EXTENSION. The limitations of time provided by Minnesota Statutes, chapters 289 and 290 relating to income taxes, and Minnesota Stat-

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

utes, chapter 271 relating to the tax court, for filing income tax returns, paying income taxes, claiming income tax refunds, commencing actions relating to income taxes, appealing to the tax court from orders relating to income taxes, and appealing to the supreme court from decisions of the tax court relating to income taxes are extended until May 30, 1997, for individuals who are residents in an area designated by the Federal Emergency Management Agency pursuant to a major disaster declaration issued for Minnesota by President Clinton after April 1, 1997, and before April 16, 1997.

Subd. 2. INTEREST AND PENALTIES. Interest on income tax must not be assessed or collected from an individual with respect to whom, and for the period during which, the limitations of time are extended as provided in subdivision 1. A penalty shall not be assessed or collected from an individual for failure during that period to perform an act required by the laws described in subdivision 1.

Subd. 3. ABATEMENT. The commissioner of revenue shall abate penalties and interest on withholding taxes and declarations under Minnesota Statutes, section 290.92, and on sales taxes deposits and returns under Minnesota Statutes, chapters 289A and 297B, for failure to pay amounts or file returns due between April 1, 1997, and May 30, 1997, if:

(1) the taxpayer is a resident in the area designated under subdivision 1, or the taxpayer's business operations are located in the area designated under subdivision 1 and the taxpayer's ability to file returns or declarations or pay the taxes is affected by the disaster; and

(2) the taxpayer files all required returns and declarations and pays all tax amounts due by May 30, 1997.

Subd. 4. APPLICABILITY. Nothing in this section reduces the time within which an act is required or permitted under Minnesota Statutes, chapter 271, 289A, 290, 297A, or 297B.

Sec. 2. EFFECTIVE DATE.

Section 1 is effective the day following final enactment.

Presented to the governor April 14, 1997

Signed by the governor April 15, 1997, 10:23 a.m.

CHAPTER 35—H.F.No. 90

An act relating to drivers' licenses; allowing exemption from commercial driver's license requirement for certain snowplow operators; amending Minnesota Statutes 1996, section 171.02, by adding a subdivision.

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

Section 1. Minnesota Statutes 1996, section 171.02, is amended by adding a subdivision to read:

New language is indicated by underline, deletions by strikeout.