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State of Minnesota

HOUSE OF REPRESENTATIVES

EIGHTY-EIGHTH SESSION

H. F. No. 3041

03/13/2014 Authored by Nelson

The bill was read for the first time and referred to the Committee on Government Operations

03/20/2014 Adoption of Report: Re-referred to the Committee on Taxes

1.1 A bill for an act
1.2 relating to state government operation; state debt collection; removing obsolete,
1.3 redundant, and unnecessary laws administered by the Department of Revenue;
1.4 amending Minnesota Statutes 2012, sections 16D.02, subdivisions 3, 6; 16D.04,
1.5 subdivisions 3, 4; 16D.07; 16D.11, subdivisions 1, 3; 270A.03, subdivision 2.

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

1.7 Section 1. Minnesota Statutes 2012, section 16D.02, subdivision 3, is amended to read:

1.8 Subd. 3. Debt. "Debt" means an amount owed to the state directly, or through a
1.9 state agency, on account of a fee, duty, lease, direct loan, loan insured or guaranteed by
1.10 the state, rent, service, sale of real or personal property, overpayment, fine, assessment,
1.11 penalty, restitution, damages, interest, tax, bail bond, forfeiture, reimbursement, liability
1.12 owed, an assignment to the state including assignments under section 256.741, the Social
1.13 Security Act, or other state or federal law, recovery of costs incurred by the state, or any
1.14 other source of indebtedness to the state. Debt also includes amounts owed to individuals
1.15 as a result of civil, criminal, or administrative action brought by the state or a state agency
1.16 pursuant to its statutory authority or for which the state or state agency acts in a fiduciary
1.17 capacity in providing collection services in accordance with the regulations adopted under
1.18 the Social Security Act at Code of Federal Regulations, title 45, section 302.33. When
1.19 the commissioner provides collection services pursuant to a debt qualification plan to a
1.20 referring agency, debt also includes an amount owed to the courts, local government
1.21 units, Minnesota state colleges and universities governed by the Board of Trustees of the
1.22 Minnesota State Colleges and Universities, or University of Minnesota.

1.23 EFFECTIVE DATE. This section is effective the day following final enactment.

2.1 Sec. 2. Minnesota Statutes 2012, section 16D.02, subdivision 6, is amended to read:

2.2 Subd. 6. **Referring agency.** "Referring agency" means a state agency, local
2.3 government unit, Minnesota state colleges and universities governed by the Board of
2.4 Trustees of the Minnesota State Colleges and Universities, University of Minnesota, or a
2.5 court, that has entered into ~~a debt qualification plan~~ an agreement with the commissioner
2.6 to refer debts to the commissioner for collection.

2.7 **EFFECTIVE DATE.** This section is effective the day following final enactment.

2.8 Sec. 3. Minnesota Statutes 2012, section 16D.04, subdivision 3, is amended to read:

2.9 Subd. 3. **Services.** The commissioner shall provide collection services for a state
2.10 agency, and may provide for collection services for ~~a court, in accordance with the terms and~~
2.11 ~~conditions of a signed debt qualification plan~~ referring agencies other than state agencies.

2.12 **EFFECTIVE DATE.** This section is effective the day following final enactment.

2.13 Sec. 4. Minnesota Statutes 2012, section 16D.04, subdivision 4, is amended to read:

2.14 Subd. 4. **Authority to contract.** ~~The commissioners~~ commissioner of revenue ~~and~~
2.15 ~~management and budget~~ may contract with credit bureaus, private collection agencies, and
2.16 other entities as necessary for the collection of debts. A private collection agency acting
2.17 under a contract with the commissioner of revenue ~~or management and budget~~ is subject
2.18 to sections 332.31 to 332.45, except that the private collection agency may indicate that it
2.19 is acting under a contract with the state. The commissioner may not delegate the powers
2.20 provided under section 16D.08 to any nongovernmental entity.

2.21 **EFFECTIVE DATE.** This section is effective the day following final enactment.

2.22 Sec. 5. Minnesota Statutes 2012, section 16D.07, is amended to read:

2.23 **16D.07 NOTICE TO DEBTOR.**

2.24 The referring agency shall send notice to the debtor by United States mail or
2.25 personal delivery at the debtor's last known address at least 20 days before the debt is
2.26 referred to the commissioner. The notice must state the nature and amount of the debt,
2.27 identify to whom the debt is owed, and inform the debtor of the remedies available under
2.28 this chapter. The referring agency shall advise the debtor of collection costs imposed
2.29 under section 16D.11 and of the debtor's right to cancellation of collection costs under
2.30 section 16D.11, subdivision 3.

2.31 **EFFECTIVE DATE.** This section is effective the day following final enactment.

3.1 Sec. 6. Minnesota Statutes 2012, section 16D.11, subdivision 1, is amended to read:

3.2 Subdivision 1. **Imposition.** As determined by the commissioner of ~~management and~~
 3.3 ~~budget revenue~~, collection costs shall be added to the debts referred to the commissioner
 3.4 or private collection agency for collection. Collection costs are collectible by the
 3.5 commissioner or private agency from the debtor at the same time and in the same
 3.6 manner as the referred debt. ~~The referring agency shall advise the debtor of collection~~
 3.7 ~~costs under this section and the debtor's right to cancellation of collection costs under~~
 3.8 ~~subdivision 3 at the time the agency sends notice to the debtor under section 16D.07.~~

3.9 If the commissioner or private agency collects an amount less than the total due, the
 3.10 payment is applied proportionally to collection costs and the underlying debt unless
 3.11 the commissioner of management and budget has waived this requirement for certain
 3.12 categories of debt pursuant to the department's internal guidelines. Collection costs
 3.13 collected by the commissioner under this subdivision or retained under subdivision 6 shall
 3.14 be deposited in the general fund as nondedicated receipts. ~~Collection costs collected by~~
 3.15 ~~private agencies are appropriated to the referring agency to pay the collection fees charged~~
 3.16 ~~by the private agency.~~ Collections of collection costs in excess of collection agency fees
 3.17 must be deposited in the general fund as nondedicated receipts.

3.18 **EFFECTIVE DATE.** This section is effective the day following final enactment.

3.19 Sec. 7. Minnesota Statutes 2012, section 16D.11, subdivision 3, is amended to read:

3.20 Subd. 3. **Cancellation.** Collection costs imposed under subdivision 1 shall be
 3.21 canceled and subtracted from the amount due if:

3.22 (1) the debtor's household income as defined in section 290A.03, subdivision 5,
 3.23 excluding the exemption subtractions in subdivision 3, paragraph (3) of that section, for
 3.24 the 12 months preceding the date of referral is less than twice the annual federal poverty
 3.25 guideline under United States Code, title 42, section 9902, subsection (2);

3.26 (2) within 60 days after the first contact with the debtor by the ~~enterprise~~
 3.27 commissioner or collection agency, the debtor establishes reasonable cause for the failure
 3.28 to pay the debt prior to referral of the debt to the ~~enterprise~~ commissioner;

3.29 (3) a good faith dispute as to the legitimacy or the amount of the debt is made,
 3.30 and payment is remitted or a payment agreement is entered into within 30 days after
 3.31 resolution of the dispute;

3.32 (4) good faith litigation occurs and the debtor's position is substantially justified, and
 3.33 if the debtor does not totally prevail, the debt is paid or a payment agreement is entered
 3.34 into within 30 days after the judgment becomes final and nonappealable; or

4.1 (5) collection costs have been added by the referring agency and are included in
4.2 the amount of the referred debt.

4.3 **EFFECTIVE DATE.** This section is effective the day following final enactment.

4.4 Sec. 8. Minnesota Statutes 2012, section 270A.03, subdivision 2, is amended to read:

4.5 Subd. 2. **Claimant agency.** "Claimant agency" means any state agency, as defined
4.6 by section 14.02, subdivision 2, the regents of the University of Minnesota, any district
4.7 court of the state, any county, any statutory or home rule charter city, including a city that
4.8 is presenting a claim for a municipal hospital or a public library or a municipal ambulance
4.9 service, a hospital district, a private nonprofit hospital that leases its building from the
4.10 county or city in which it is located, any ambulance service licensed under chapter 144E,
4.11 any public agency responsible for child support enforcement, any public agency responsible
4.12 for the collection of court-ordered restitution, and any public agency established by
4.13 general or special law that is responsible for the administration of a low-income housing
4.14 program, ~~and the Minnesota collection enterprise as defined in section 16D.02, subdivision~~
4.15 ~~8, for the purpose of collecting the costs imposed under section 16D.11.~~

4.16 **EFFECTIVE DATE.** This section is effective the day following final enactment.