

MINNESOTA STATUTES 1961

CHAPTER 332

COLLECTION AGENCIES; AIDS TO LIQUIDATION OF DEBTS

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COLLECTION AGENCIES

332.01 COLLECTION AGENCIES. Subdivision 1. **Bond filed.** No person, partnership, association, or corporation shall conduct a collection agency, collection bureau, or collection office in this state or engage in this state solely in the business of collecting or receiving payment for others of any account, bill, or other indebtedness, or engage in this state in the business of soliciting the right to collect or receive payment for another of any account, bill, or other indebtedness, or advertise for or solicit in print the right to collect or receive payment for another of any account, bill, or other indebtedness, unless, at the time of conducting such collection agency, collection bureau, collection office, or collection business, or of doing such advertising or soliciting, such person, partnership, association, or corporation, or the person, partnership, association, or corporation for whom he or it may be acting as agent, shall have on file with the secretary of state a good and sufficient bond.

Subd. 2. **Amount and conditions of bond.** The bond shall be in the sum of \$5,000 and provide that the person, partnership, association, or corporation giving the same shall, upon written demand, pay and turn over to or for the person, partnership, association, or corporation for whom any account, bill, or other indebtedness is taken for collection the proceeds of such collection in accordance with the terms of the agreement upon which the account, bill, or other indebtedness was received for collection. The bond shall also provide that the person, partnership, association, or corporation giving the same shall, upon written demand, within ten days after such demand, give the person, partnership, association, or corporation for whom any account, note, bill, or other indebtedness, or evidence thereof, is taken for collection, a statement verified by affidavit, of all moneys or things received or collected thereon, showing the amounts retained or claimed as collection or service charges on each separate item upon which any collection shall have been made; and, if so demanded, within that time return, subject to any lien for expenditures or services, all such accounts or statements thereof, notes, bills, or other evidence of indebtedness to the person, partnership, association, or corporation from whom any of the same shall have been received for collection. The bond shall be in such form as the attorney general shall prescribe.

Subd. 3. **Term of bond; limitation.** The bond shall be for the term of one year from the date thereof, unless the secretary of state and the person, partnership, association, or corporation giving the same shall agree on a longer period. No action on the bond shall be begun after two years from the expiration thereof.

Subd. 4. **Bonds; execution, approved.** The bond shall be executed by the persons, partnerships, associations, or corporations as principal, with at least two good and sufficient sureties who shall be residents and owners of real estate within the state. The bond shall not be accepted unless approved by the secretary of state and, upon such approval, it shall be filed in his office. For such service the secretary of state shall be paid a fee of \$10. The bond of a surety company may be received, if approved as aforesaid, or cash may be accepted in lieu of sureties.

[1913 c 532 s 1-4; 1941 c 407; 1955 c 820 s 34] (5888, 5889, 5890, 5891)

332.02 RECORD OF BONDS. The secretary of state shall keep a record of the bonds filed with him under the provisions of section 332.01, with the names, places of residence, and places of business of the principals and sureties, and the name of the officer before whom the bond was executed or acknowledged, and the record shall be open to public inspection.

[1913 c. 532 s. 5] (5892)

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332.03 EXCEPTIONS. Sections 332.01 and 332.02 shall not apply to any attorney at law duly authorized to practice in this state and resident therein, to a national bank, or to any bank or trust company duly incorporated under the laws of this state.

[1913 c. 532 s. 7] (5894)

PRORATING AGENCIES

332.04 WHO MAY LIQUIDATE DEBTS OF OTHERS. Any person, copartnership, association, or corporation who shall engage in, or hold themselves out as engaging in, the business of compromising, settling, adjusting, prorating, or liquidating the indebtedness of a debtor, except as hereinafter expressly exempted, shall be subject to the provisions of sections 332.04 to 332.10.

[1935 c. 347 s. 1] (5887-51)

332.05 APPLICATION, FILING. Any person, copartnership, association, or corporation desiring to engage in such business shall file with the secretary of state an application to engage in such business, in such form as the secretary of state may provide, together with a fee of \$10. Upon the filing of any such application the secretary of state shall refer a copy of the application to the county attorney of the county in which such person, copartnership, association, or corporation proposes to establish its business, and the county attorney shall forthwith inquire into the fitness of such person to conduct such business, having in mind the character of the applicant, or, in case of a copartnership, association, or corporation, the character and fitness of copartners, officers, and directors, together with their ability and fitness to conduct the business in the interest of the debtor, and report such findings, with his recommendation, to the secretary of state.

[1935 c. 347 s. 2; 1955 c. 320 s. 35] (5887-52)

332.06 BOND. Before the secretary of state shall issue any permit or authorization to any such person, copartnership, association, or corporation to engage in such business, the applicant shall file with him a surety bond, to be approved by him, in which the applicant shall be the obligor in the sum of \$5,000, with one or more sureties, whose liability as such surety need not exceed this sum in the aggregate. The bond shall run to the state of Minnesota for the use of the state or any person who may have a cause of action against the obligor of the bond under the provisions of sections 332.04 to 332.10. Such bond shall be conditioned that the obligor will faithfully conform to and abide by the provisions of sections 332.04 to 332.10 and will pay to the state and to any such person any and all moneys that may be due or owing to the state or to such person from the obligor under and by virtue of the provisions of sections 332.04 to 332.10.

If the secretary of state shall find at any time that the bond is insecure or exhausted, or otherwise doubtful, an additional bond, to be approved by him, with one or more sureties, and of the character specified herein, in the sum of not more than \$5,000, shall be filed by the obligor within ten days after written demand upon the obligor by the secretary of state.

[1935 c. 347 s. 3] (5887-53)

332.07 SECRETARY OF STATE MAY EXAMINE RECORDS. Upon written complaint of any person feeling aggrieved and for the purpose of recovering violations of sections 332.04 to 332.10, or securing information lawfully required by him thereunder, the secretary of state may, at any time, either personally or by any person duly designated by him, examine the bonds, accounts, records, and files used therein, as to the accounts of the complaining party, of every obligor and of every person, copartnership, association, or corporation which shall be engaged in such business, whether such person, copartnership, association, or corporation shall act, or claim to act, as principal or agent under or without the authority of sections 332.04 to 332.10. The secretary of state may forward such complaint to the county attorney of the county in which such business is situated, and the county attorney shall forthwith examine into such matters, as heretofore enumerated, and make report thereof to the secretary of state. The secretary of state and such county attorney, with all persons duly designated by them, shall have the authority to require the attendance of, and to examine, under oath, all persons whose testimony he may require relative to such business.

It shall be the duty of the county attorney, either before or after making such report to the secretary of state, to prosecute any such person, copartnership, asso-

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ciation, or corporation found by him upon such examination, or otherwise, to have violated the provisions of any law of the state.

[1935 c. 347 s. 4] (5887-54)

332.08 OBLIGOR TO KEEP ACCOUNTS. The obligor shall keep and use in his business such books, accounts, and records as will enable the secretary of state, or county attorney in such county, to determine whether such obligor is complying with the provisions of sections 332.04 to 332.10. Every obligor shall preserve such books, accounts, and records, including cards used in the card system, if any, for at least two years after making the final entry on any contract recorded therein.

[1935 c. 347 s. 5] (5887-55)

332.09 OBLIGOR TO MAKE STATEMENT OF ACCOUNT. Every obligor shall:

(1) Deliver to any debtor at the time the contract is made a statement, in the English language, showing in clear and distinct terms the amount of the indebtedness claimed by the debtor to be owing to his creditors, the date of the contract and its maturity, the nature of the security, if any, for the contract, the names and addresses of the debtor and of the obligor, and the agreed total charges for the service rendered or to be rendered;

(2) Within 35 days after the payment of any moneys by the debtor to the obligor, pay to the creditors of the debtor their proportionate share due in accordance with the terms of the contract;

(3) Give to the debtor a plain and complete receipt for all payments made on account of such contract at the time such payments are made; and

(4) Upon payment of the contract in full, mark indelibly every obligation and security signed by the debtor with the word "paid" or "canceled," and release any mortgage, restore any pledge, cancel and return any note, and cancel and return any assignment given to the obligor by the debtor.

[1935 c. 347 s. 6] (5887-56)

332.10 EXCEPTIONS. Sections 332.04 to 332.09 shall not apply to any attorney at law duly authorized to practice in this state and resident therein, nor to any person, copartnership, association, or corporation doing business under and as permitted by any law of this state or of the United States relating to charitable corporations, banks, savings banks, trust companies, building and loan associations, or credit unions, and nothing contained in sections 332.04 to 332.09 shall permit, or be construed as authorizing, any person, not otherwise duly admitted to practice law in this state, to engage in the practice of law.

[1935 c. 347 s. 8; 1943 c. 129 s. 1] (5887-58)

332.11 VIOLATIONS; PENALTIES. Subdivision 1. **Collection agencies.** Any person, member of a partnership or officer of an association or corporation, who fails to comply with any provision of sections 332.01 to 332.03 shall be guilty of a gross misdemeanor.

Subd. 2. **Prorating agencies.** Any person, copartnership, association, or corporation and the several members, officers, directors, agents, and employees thereof, who shall violate or participate in the violation of any of the provisions of sections 332.04 to 332.10 shall be guilty of a misdemeanor.

Any contract not invalid for any other reason, in the making or collection of which any act shall have been done which constitutes a misdemeanor under sections 332.04 to 332.10, is void and neither the obligor nor his assigns shall have the right to collect or receive any principal, interest, or charges.

[1913 c 532 s 6; 1935 c 347 s 7; 1947 c 200 s 1] (5893, 5887-57)