

## CHAPTER 332

### COLLECTION, CREDIT SERVICES, AND DEBT PRORATING ORGANIZATIONS

332.13 Definitions.

332.23 Fees, payments, and cancellations.

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Exclusions.

**332.13 DEFINITIONS.***[For text of subd 1, see M.S.1994]*

Subd. 2. "Debt prorating" means the performance of any one or more of the following:

(a) managing the financial affairs of an individual by distributing income or money to the creditors thereof;

(b) receiving funds for the purpose of distributing said funds among creditors in payment or partial payment of obligations of a debtor; or

(c) settling, adjusting, prorating, pooling, or liquidating the indebtedness of a debtor. Any person so engaged or holding out as so engaged shall be deemed to be engaged in debt prorating regardless of whether or not a fee is charged for such services. This term shall not include services performed by the following when engaged in the regular course of their respective businesses and professions:

(1) Attorneys at law, escrow agents, accountants, broker-dealers in securities;

(2) Banks, state or national, trust companies, savings associations, title insurance companies, insurance companies and all other lending institutions duly authorized to transact business in the state of Minnesota, provided no fee is charged for such service;

(3) Persons who, as employees on a regular salary or wage of an employer not engaged in the business of debt prorating, perform credit services for their employer;

(4) Public officers acting in their official capacities and persons acting pursuant to court order;

(5) Nonprofit corporations, organized under Minnesota Statutes 1967, Chapter 317, giving debt prorating service, provided no fee is charged for such service;

(6) Any person while performing services incidental to the dissolution, winding up or liquidation of a partnership, corporation or other business enterprise;

(7) The state of Minnesota, its political subdivisions, public agencies and their employees;

(8) Credit unions, provided no fee is charged for such service;

(9) "Qualified organizations" designated as representative payees for purposes of the Social Security and Supplemental Security Income representative payee system and the federal Omnibus Budget Reconciliation Act of 1990, Public Law Number 101-508; and

(10) Accelerated mortgage payment providers. "Accelerated mortgage payment providers" are persons who, after satisfying the requirements of sections 332.30 to 332.303, receive funds to make mortgage payments to a lender or lenders, on behalf of mortgagors, in order to exceed regularly scheduled minimum payment obligations under the terms of the indebtedness. The term does not include: (i) persons or entities described in clauses (1) to (9); (ii) mortgage lenders or servicers, industrial loan and thrift companies, or regulated lenders under chapter 56; or (iii) persons authorized to make loans under section 47.20, subdivision 1.

For purposes of this clause and sections 332.30 to 332.303, "lender" means the original lender or that lender's assignee, whichever is the current mortgage holder.

*[For text of subds 3 to 8, see M.S.1994]***History:** 1995 c 202 art 1 s 25**332.23 FEES, PAYMENTS, AND CANCELLATIONS.**

Subdivision 1. **Origination fee, credit background report cost.** The licensee may charge an origination fee of not more than \$25 and collect from the debtor the actual cost of a

credit background report obtained from a credit reporting agency not related to or affiliated with the licensee. The costs to the debtor of said origination fee and credit background report may be made from the originating amount paid by the debtor to the licensee. The cost of only one credit background report may be collected from the debtor in any 12-month period.

Subd. 2. **Withdrawal of fee.** The licensee may withdraw and retain as partial payment of the licensee's total fee not more than 15 percent of any sum deposited with the licensee by the debtor for distribution. The remaining 85 percent must be disbursed to listed creditors pursuant to and in accordance with the contract between the debtor and the licensee within 35 days after receipt. Total payment to licensee for services rendered, excluding the origination fee and any credit background report, shall not exceed 15 percent of funds deposited with licensee by debtor for distribution.

*[For text of subds 3 to 8, see M.S.1994]*

**History:** 1995 c 202 art 2 s 30,31

### 332.32 EXCLUSIONS.

The term "collection agency" shall not include persons whose collection activities are confined to and are directly related to the operation of a business other than that of a collection agency such as, but not limited to banks when collecting accounts owed to the banks and when the bank will sustain any loss arising from uncollectible accounts, abstract companies doing an escrow business, real estate brokers, public officers, persons acting under order of a court, lawyers, trust companies, insurance companies, credit unions, savings associations, loan or finance companies unless they are engaged in asserting, enforcing or prosecuting unsecured claims which have been purchased from any person, firm, or association when there is recourse to the seller for all or part of the claim if the claim is not collected.

**History:** 1995 c 202 art 1 s 25