

from taconite and taconite railroads are less than the average annual receipts from taconite or taconite railroad taxes in the preceding five years, and are insufficient for ordinary expenses of the village, or any condition that would subject the village to extraordinary expenditures, the council may by resolution, transfer funds from the reserve fund to the general revenue fund to meet such expenses or extraordinary expenditures.

Sec. 3. The general revenue reserve fund shall not exceed the average annual receipts from taconite or railroad taxes for the preceding five years.

Sec. 4. This act is effective with respect to each village named in section 1, upon its approval by a majority of the qualified voters of each village at a regular or special election called for the purpose and upon compliance with Minnesota Statutes, Section 645.021.

Approved May 21, 1971.

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#### CHAPTER 441—H.F.No.2352

*An act relating to the regulation of debt proraters; revising the bond required of licensed bond proraters; authorizing licenses for one calendar year; requiring certain additional information to be contained in contracts; providing for examinations of books and records at the expense of the licensee; regulating fees and assessment of expenses; prohibiting certain acts; providing penalties; amending Minnesota Statutes 1969, Sections 332.15, Subdivision 4; 332.16; 332.21; 332.22, Subdivision 1; 332.23, Subdivisions 1, 2, 4 and 6; and 332.24.*

Be it enacted by the Legislature of the State of Minnesota:

Section 1. Minnesota Statutes 1969, Section 332.15, Subdivision 4, is amended to read:

Subd. 4. **DEBT PRORATING AGENCIES; BOND.** Every applicant shall submit to the commissioner at the time of the application for a license, a surety bond to be approved by the attorney general in which the applicant shall be the obligor, in a sum to be determined by the commissioner but not less than \$5,000, and in which an insurance company, which is duly authorized by the state of Minnesota to transact the business of fidelity and surety insurance, shall be a surety; provided, however, the commissioner may accept a deposit in

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cash, or securities such as may legally be purchased by savings banks or for trust funds of an aggregate market value equal to the bond requirement, in lieu of the surety bond, such cash or securities to be deposited with the state treasurer. The commissioner may, in his discretion, also require a fidelity bond in an appropriate amount covering employees of any applicant. Each branch office or additional place of business of an applicant shall be bonded as provided herein. In determining the bond amount necessary for the maintenance of any office be it surety, fidelity or both the commissioner shall consider the financial responsibility, experience, character and general fitness of the agency and its operators and owners; the volume of business handled or proposed to be handled; the location of the office and the geographical area served or proposed to be served; and such other information the commissioner may deem pertinent based upon past performance, previous examinations, annual reports and manner of business conducted in other states.

Sec. 2. Minnesota Statutes 1969, Section 332.16, is amended to read:

**332.16 QUALIFICATIONS FOR LICENSE.** Upon the filing of the application, approval of the bond and payment of the specified fees, the commissioner shall conduct an investigation. The commissioner shall thereafter issue a license to the applicant if he shall find:

(a) That the financial responsibility, experience, character and general fitness of the applicant, and of the members thereof, if the applicant be a partnership or association, and of the officers, directors and each of the stockholders who own more than five percent of outstanding stock thereof, if the applicant be a corporation, are such as to indicate that the business will be operated fairly and honestly within the purposes of sections 332.12 to 332.29, and that any other business or profession engaged in by the applicant or such persons does not create a conflict of interest with respect to the ability to represent an individual fairly;

(b) That neither the applicant, nor any of such persons has been convicted of any crime or ordinance involving moral turpitude within the past ten years;

(c) That neither the applicant nor any of such persons has had a record of having defaulted in the payment of money collected for others, including the discharge of debts through bankruptcy proceedings;

(d) That neither the applicant nor any of such persons has had a license to engage in debt prorating revoked or removed in this or any other state;

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(e) That neither the applicant nor any of such persons operates or is an employee or owner of a collection agency or process serving business; and

(f) That such person or the applicant and all of such persons have fully complied with the requirements of sections 332.12 to 332.29 and all valid rules, regulations and orders of the commissioner. Said license shall permit the applicant to engage in the debt prorating service business in accordance with the provisions of sections 332.12 to 332.29 at the location specified in the application. The license shall remain in full force and effect for one calendar year ~~from the date of its issuance~~ or until it is surrendered by the licensee or revoked or suspended by the commissioner pursuant hereto.

Sec. 3. Minnesota Statutes 1969, Section 332.21, is amended to read:

**332.21 CONTRACTS.** Each contract entered into by the licensee and the debtor shall be in writing and signed by both parties. The licensee shall furnish the debtor with a copy of the signed contract. Each such contract shall set forth (1) the dollar charges agreed upon for the services of the licensee, clearly disclosing to such debtor the total amount which may be retained by licensee for services if the contract is fully performed, which maximum amount would be the origination fee together with 15 percent of the amount scheduled to be liquidated by such contract, (2) the terms upon which the debtor may cancel the contract as set out in section 332.23, (3) all debts which are to be managed by the licensee, including the name of the creditor and the amount of the debt, and (4) such other matter as the commissioner may require by rule and regulation. A contract shall not be effective until a payment has been made to the licensee for distribution to creditors or until three business days after the signing thereof, whichever is later. Within such period an individual may disaffirm said contract and upon such disaffirmance said contract shall be null and void.

Sec. 4. Minnesota Statutes 1969, Section 332.22, Subdivision 1, is amended to read:

**332.22 BOOKS, RECORDS, AND INFORMATION.** Subdivision 1. **RECORDS RETENTION.** Every licensee shall keep, and use in his business, such books, accounts, and records as will enable the commissioner to determine whether such licensee is complying with the provisions of sections 332.12 to 332.29 and of the rules, regulations, orders and directives promulgated by the commissioner pursuant to sections 332.12 to 332.29. Every licensee shall preserve such books, accounts and records for at least five years after making the final entry on any transaction recorded therein. Examinations of the books, records and method of operations as shall be conducted under the supervision of the commissioner herein shall be done at the cost of

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the licensee. The cost shall be assessed as determined pursuant to Minnesota Statutes, Section 46.131, as amended from time to time.

Sec. 5. Minnesota Statutes 1969, Section 332.23, Subdivision 1, is amended to read:

**332.23 FEES, PAYMENTS, AND CANCELLATIONS.** Subdivision 1. **ORIGINATION FEE.** The licensee may charge an origination fee of not more than ~~five percent of the agreed total fees and charges for the entire term of the contract, but in no event more than \$25.~~ Fees or charges withdrawn by the licensee from payments by the debtor during the first 60 days after execution of the contract shall be ~~reduced pro rata to cover~~ The costs of the debtor of said origination fee may be made from the originating amount paid by the debtor to the licensee. ~~It is the intention of this subdivision to limit the total fees and charges, including any origination fee, to 15 percent of the debts actually liquidated pursuant to the contract.~~

Sec. 6. Minnesota Statutes 1969, Section 332.23, Subdivision 2, is amended to read:

Subd. 2. **WITHDRAWAL OF FEE.** The licensee may withdraw and retain as partial payment of his 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, shall not exceed 15 percent of funds deposited with licensee by debtor for distribution.

Sec. 7. Minnesota Statutes 1969, Section 332.23, Subdivision 4, is amended to read:

Subd. 4. **ADDITIONAL CONTRACTS; RECURRING PAYMENTS.** Separate and additional contracts shall be entered into by the licensee and debtor for the management of any debt not listed in any other executory contract or for any increase in the size of any debt included in any other contract, provided, the licensee shall not charge any origination fee for any such additional contract. No fees or charges shall be received or retained by the licensee for any handling of recurrent payments. Recurrent payments shall include current rent, house, utility, telephone, alimony, child support, insurance premium and such other payments as the ~~administrator~~ commissioner may by rule and regulation prescribe.

Sec. 8. Minnesota Statutes 1969, Section 332.23, Subdivision 6, is amended to read:

Subd. 6. **CONSENT OF CREDITORS.** The licensee shall actively seek to obtain the consent of all creditors to the plan of

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distribution set forth in the contract. Failure to obtain such consent of all such creditors within 60 days of the date upon which the contract is executed shall entitle the debtor to cancel the contract within 120 days of the date of such execution without liability to pay any cancellation fee ~~otherwise authorized in this section~~. Consent by a creditor may be express and in writing, or may be evidenced by acceptance of a payment made pursuant to the plan of distribution set forth in the contract. The licensee shall notify the debtor within ten days after the expiration of the 60 day period prescribed in this subdivision of any failure to obtain the required consent and of the debtor's right to cancel without penalty. Such notice shall be in such form as the commissioner shall prescribe. Nothing contained in ~~this subdivision~~ section 332.23 shall be deemed to require the return of any origination fee and any fees ~~other than for cancellation~~ earned by the licensee prior to cancellation ~~pursuant to this subdivision or default~~.

Sec. 9. Minnesota Statutes 1969, Section 332.24, is amended to read:

**332.24 PROHIBITIONS.** A licensee shall not:

- (1) Purchase from a creditor any obligation of a debtor;
- (2) Use, threaten to use, seek to have used or seek to have threatened the use of any legal process, including but not limited to garnishment and repossession of personal property, against any debtor while the contract between the licensee and the debtor remains executory;
- (3) Advertise or make any statement or representation with regard to the rates, terms, or conditions of debt prorating service which is false, misleading or deceptive;
- (4) Require as a condition of performing debt prorating services nor shall the contract between the licensee and a debtor require the purchase of any services, stock, insurance, commodity or other property or any interest therein either by the debtor or the licensee;
- (5) Compromise any debts unless the prior written approval of the debtor has been obtained to such compromise and unless such compromise shall inure solely to the benefit of the debtor;
- (6) Receive from any debtor as security or in payment of any fee a promissory note or other promise to pay or any mortgage or other security, whether as to real or personal property;
- (7) Lend money or credit to any debtor if any interest or fee is charged;

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(8) Take any confession of judgment or power of attorney to confess judgment against the debtor or appear as the debtor in any judicial proceedings;

(9) Take, concurrent with the signing of the contract, or as a part of the contract or as part of the application for the contract, a release of any obligation required to be performed on the part of the licensee;

(10) Offer, pay or give any substantial cash fee, gift, bonus, premium, reward or other compensation to any person, other than an employee of the licensee for referring any prospective customer to the licensee;

(11) Receive any cash, fee, gift, bonus, premium, reward, or other compensation from any person other than the debtor or a person in the debtor's behalf in connection with his activities as a licensee; provided, however, that this paragraph shall not apply to a licensee which is a bona fide non-profit corporation, duly organized under chapter 317;

(12) Enter into a contract with a debtor unless a thorough written budget analysis indicates that the debtor can reasonably meet the requirements of the financial adjustment plan and will be benefited by the plan;

(13) In any way charge or purport to charge or provide any debtor credit insurance in conjunction with any contract or agreement involved in the financial adjustment plan .

Any violation of the prohibitions contained in this section shall be cause for the suspension, revocation or refusal to renew a license pursuant to section 332.20 and shall also constitute a violation of the provisions of sections 332.12 to 332.29 to which the penalties prescribed in section 332.26 shall attach. In addition to such penalties any person attempting to perform a debt prorating service in this state without maintaining an office in this state shall be subject to a fine not to exceed \$10,000, as determined by the commissioner.

Approved May 21, 1971.

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#### CHAPTER 442—H.F.No.2409

[Coded in Part]

*An act relating to industrial loan and thrift companies; defining certain terms; revising the requirements for doing business and the*

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