

HOUSE OF REPRESENTATIVES

EIGHTY-SEVENTH SESSION

H. F. No. 2569

02/29/2012 Authored by Mazorol, Atkins, Loon, Davnie and Westrom

The bill was read for the first time and referred to the Committee on Commerce and Regulatory Reform

03/12/2012 Adoption of Report: Pass as Amended and Read Second Time

1.1 A bill for an act
1.2 relating to debt management and debt settlement; clarifying exemption for
1.3 attorneys at law; amending Minnesota Statutes 2010, sections 332A.02,
1.4 subdivision 8, by adding a subdivision; 332B.02, subdivision 13, by adding a
1.5 subdivision.

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

1.7 Section 1. Minnesota Statutes 2010, section 332A.02, subdivision 8, is amended to
1.8 read:

1.9 Subd. 8. **Debt management services provider.** "Debt management services
1.10 provider" means any person offering or providing debt management services to a debtor
1.11 domiciled in this state, regardless of whether or not a fee is charged for the services and
1.12 regardless of whether the person maintains a physical presence in the state. This term
1.13 includes any person to whom debt management services are delegated, and does not
1.14 include services performed by the following when engaged in the regular course of their
1.15 respective businesses and professions:

1.16 (1) exempt attorneys at law, escrow agents, accountants, broker-dealers in securities;

1.17 (2) state or national banks, credit unions, trust companies, savings associations,
1.18 title insurance companies, insurance companies, and all other lending institutions duly
1.19 authorized to transact business in Minnesota;

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

1.22 (4) public officers acting in their official capacities and persons acting as a debt
1.23 management services provider pursuant to court order;

1.24 (5) any person while performing services incidental to the dissolution, winding up,
1.25 or liquidation of a partnership, corporation, or other business enterprise;

(6) the state, its political subdivisions, public agencies, and their employees;

(7) collection agencies, provided that the services are provided to a creditor;

(8) "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 101-508;

(9) 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 (8); (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;

(10) trustees, guardians, and conservators; and

(11) debt settlement services providers.

Sec. 2. Minnesota Statutes 2010, section 332A.02, is amended by adding a subdivision to read:

Subd. 10a. **Exempt attorney at law.** "Exempt attorney at law" means an attorney who:

(1) is licensed or otherwise authorized to practice law in this state;

(2) does not have a business relationship with the debt management services provider that involves the offering or provision of debt management services to debtors; and

(3) provides debt management services as an ancillary matter to the primary purpose of the attorney's practice.

Sec. 3. Minnesota Statutes 2010, section 332B.02, subdivision 13, is amended to read:

Subd. 13. Debt settlement services provider. "Debt settlement services provider" means any person offering or providing debt settlement services to a debtor domiciled in this state, regardless of whether or not a fee is charged for the services and regardless of whether the person maintains a physical presence in the state. The term includes any person to whom debt settlement services are delegated. The term shall not include an exempt attorney at law and persons listed in section 332A.02, subdivision 8, clauses (1) to (10), or a debt management services provider.

3.1 Sec. 4. Minnesota Statutes 2010, section 332B.02, is amended by adding a subdivision
3.2 to read:

3.3 Subd. 13a. **Exempt attorney at law.** "Exempt attorney at law" means an attorney
3.4 who:

3.5 (1) is licensed or otherwise authorized to practice law in this state;

3.6 (2) does not have a business relationship with the debt settlement services provider
3.7 that involves the offering or provision of debt settlement services to debtors; and

3.8 (3) provides debt settlement services as an ancillary matter to the primary purpose
3.9 of the attorney's practice.