

SENATE
STATE OF MINNESOTA
NINETY-SECOND SESSION

S.F. No. 1391

(SENATE AUTHORS: HOWE)

DATE	D-PG	OFFICIAL STATUS
02/25/2021	548	Introduction and first reading Referred to Commerce and Consumer Protection Finance and Policy
03/11/2021	833a 837	Comm report: To pass as amended Second reading
02/24/2022	4795 5096a	Rule 47, returned to Commerce and Consumer Protection Finance and Policy Comm report: To pass as amended
05/10/2022	5111 8178	Second reading Special Order
05/18/2022	8178 8486	Third reading Passed Returned from House
		Presentment date 05/20/2022
	9335	Governor's action Approval 05/22/2022
	9336	Secretary of State Chapter 67 05/22/2022
		Effective date 08/01/22

1.1 A bill for an act

1.2 relating to commerce; regulating debt settlement services providers; amending

1.3 Minnesota Statutes 2020, sections 332A.02, subdivision 8, by adding subdivisions;

1.4 332B.02, subdivision 13.

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

1.6 Section 1. Minnesota Statutes 2020, section 332A.02, subdivision 8, is amended to read:

1.7 Subd. 8. **Debt management services provider.** "Debt management services provider"

1.8 means any person offering or providing debt management services to a debtor domiciled

1.9 in this state, regardless of whether or not a fee is charged for the services and regardless of

1.10 whether the person maintains a physical presence in the state. This term includes any person

1.11 to whom debt management services are delegated, and does not include services performed

1.12 by the following when engaged in the regular course of their respective businesses and

1.13 professions:

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

1.15 (2) certified public accountants and CPA firms licensed under chapter 326A;

1.16 ~~(2)~~ (3) state or national banks, credit unions, trust companies, savings associations, title

1.17 insurers, insurance companies, and all other lending institutions duly authorized to transact

1.18 business in Minnesota;

1.19 ~~(3)~~ (4) persons who, as employees on a regular salary or wage of an employer not engaged

1.20 in the business of debt management, perform credit services for their employer;

1.21 ~~(4)~~ (5) public officers acting in their official capacities and persons acting as a debt

1.22 management services provider pursuant to court order;

2.1 ~~(5)~~ (6) any person while performing services incidental to the dissolution, winding up,
2.2 or liquidation of a partnership, corporation, or other business enterprise;

2.3 ~~(6)~~ (7) the federal government, the state, their political subdivisions, public agencies,
2.4 and employees;

2.5 ~~(7)~~ (8) collection agencies, provided that the services are provided to a creditor;

2.6 ~~(8)~~ (9) "qualified organizations" designated as representative payees for purposes of the
2.7 Social Security and Supplemental Security Income Representative Payee System and the
2.8 federal Omnibus Budget Reconciliation Act of 1990, Public Law 101-508;

2.9 ~~(9)~~ (10) accelerated mortgage payment providers. "Accelerated mortgage payment
2.10 providers" are persons who, after satisfying the requirements of sections 332.30 to 332.303,
2.11 receive funds to make mortgage payments to a lender or lenders, on behalf of mortgagors,
2.12 in order to exceed regularly scheduled minimum payment obligations under the terms of
2.13 the indebtedness. The term does not include: (i) persons or entities described in clauses (1)
2.14 to ~~(8)~~ (9); (ii) mortgage lenders or servicers, industrial loan and thrift companies, or regulated
2.15 lenders under chapter 56; or (iii) persons authorized to make loans under section 47.20,
2.16 subdivision 1. For purposes of this clause and sections 332.30 to 332.303, "lender" means
2.17 the original lender or that lender's assignee, whichever is the current mortgage holder;

2.18 ~~(10)~~ (11) trustees, guardians, and conservators; ~~and~~

2.19 ~~(11)~~ (12) an enrolled agent or enrolled agent firm; and

2.20 (13) debt settlement services providers.

2.21 Sec. 2. Minnesota Statutes 2020, section 332A.02, is amended by adding a subdivision to
2.22 read:

2.23 Subd. 10b. **Enrolled agent.** "Enrolled agent" means a person defined under Code of
2.24 Federal Regulations, title 26, section 601.502, and who is authorized to practice before the
2.25 Internal Revenue Service pursuant to Code of Federal Regulations, title 31, section 10.3.

2.26 Sec. 3. Minnesota Statutes 2020, section 332A.02, is amended by adding a subdivision to
2.27 read:

2.28 Subd. 10c. **Enrolled agent firm.** "Enrolled agent firm" means an association, corporation,
2.29 partnership, or sole proprietorship:

2.30 (1) that is owned by or employs enrolled agents;

3.1 (2) whose practice, in whole or in part, involves, for a fee, assisting debtors to delay
3.2 payment of delinquent taxes owed, establish a payment plan for delinquent taxes owed, or
3.3 obtain a settlement for less than the full amount of delinquent taxes owed; and

3.4 (3) where:

3.5 (i) all contracts with debtors are reviewed and signed by an enrolled agent employed by
3.6 the firm;

3.7 (ii) an enrolled agent is responsible for all work performed under the contract and the
3.8 responsible agent obtains a power of attorney or a disclosure authorization from the debtor;
3.9 and

3.10 (iii) an enrolled agent files the power of attorney or disclosure authorization according
3.11 to all procedural requirements under the Internal Revenue Code.

3.12 Sec. 4. Minnesota Statutes 2020, section 332B.02, subdivision 13, is amended to read:

3.13 Subd. 13. **Debt settlement services provider.** "Debt settlement services provider" means
3.14 any person offering or providing debt settlement services to a debtor domiciled in this state,
3.15 regardless of whether or not a fee is charged for the services and regardless of whether the
3.16 person maintains a physical presence in the state. The term includes any person to whom
3.17 debt settlement services are delegated. The term shall not include an exempt attorney at law
3.18 and persons listed in section 332A.02, subdivision 8, clauses (2) to ~~(10)~~ (12), or a debt
3.19 management services provider.