

less than \$100 nor more than \$1,000, or to imprisonment for not less than 90 days nor more than one year, or both, for each offense.

Sec. 13. [182.62] **Jurisdiction.** This act is not intended to apply to employment or places of employment under the exclusive jurisdiction of the federal government. In the exercise of their respective powers and duties under this act, the commissioner and the board shall give due consideration to those places of employment that have effective federal regulations and adequate federal inspections and avoid unnecessary duplications.

Approved May 27, 1969.

CHAPTER 766—H. F. No. 516

[Coded]

An act relating to the licensing and regulation of collection agencies; providing penalties for violations; creating an advisory board; repealing Minnesota Statutes 1967, Sections 332.01 to 332.03.

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

Section 1. [332.31] **Collection agencies; definitions.**
Subdivision 1. The terms in this section for the purposes of sections 1 to 19 shall have the meanings given them.

Subd. 2. **Person.** "Person" means and includes individuals, partnerships, associations or corporations.

Subd. 3. **Collection agency.** "Collection agency" means and includes any person engaged in the business of collection for others any account, bill or other indebtedness except as hereinafter provided. It includes persons who furnish collection systems carrying a name which simulates the name of a collection agency and who supply forms or form letters to be used by the creditor, even though such forms direct the debtor to make payments directly to the creditor rather than to such fictitious agency.

Subd. 4. **Department.** "Department" means the department of labor and industry of the state of Minnesota.

Subd. 5. **Board.** "Board" means the collection agency advisory board.

Sec. 2. [332.32] **Exclusions.** The term "collection

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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, building and loan associations, savings and loan 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.

Sec. 3. [332.33] **Licenses.** Subdivision 1. Except as hereinafter provided no person shall conduct within this state a collection agency or engage within this state in the business of collecting claims for others as defined in this act, without having first applied for and obtained a license.

Subd. 2. Any person who shall carry on business as a collection agency without first having obtained a license pursuant to sections 1 to 19, or who shall carry on such business after the revocation, suspension, or expiration of any license shall be guilty of a misdemeanor and punishable by a fine not exceeding \$100 or by imprisonment not exceeding 90 days, or by both fine and imprisonment.

Subd. 3. Licenses granted by the department under sections 1 to 19 shall be for a period of one year. All renewals of licenses shall likewise be for a period of one year. Each license shall plainly state the name and business address of the licensee, and shall be posted in a conspicuous place in the office where the business is transacted. The fee for each license and renewal shall be \$100. If the licensee desires to carry on business in more than one place within the state, he shall procure a license for each place where the business is to be conducted.

Subd. 4. The department may require such financial statements and references of all applicants for a license as it deems necessary; and may make or cause to be made an independent investigation concerning the applicant's reputation, integrity, competence, and net worth, at the expense of the applicant for such initial investigation, not to exceed \$100, and for that purpose may require such deposit against the cost thereof as it deems adequate. Such investigation may cover all managerial personnel employed by or associated with the applicant.

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Subd. 5. Every application for a license or renewal shall be acted upon promptly by the department but in no event more than 45 days after receipt of said application. If the application shall comply in form and substance with the provisions of sections 1 to 19 and the rules and regulations promulgated thereunder and the department shall find that the applicant is qualified under the provisions of sections 1 to 19, the department shall issue a license forthwith. If the application shall not be sufficient in form or substance, the department shall reject it and notify the applicant of the manner in which it is deficient. Such rejection shall be without prejudice to the filing of a new application. If the department shall find that the applicant is not qualified under the provisions of sections 1 to 19, it shall reject the application and shall give the applicant written notice of such rejection and the reasons therefore.

Subd. 6. All money received by the department shall be deposited in the general revenue fund of the state treasury.

Sec. 4. [332.34] **Bond.** The department shall require each licensee to file and maintain in force a corporate surety bond, in a form to be prescribed by the department and acceptable to it, and in the sum of \$5,000.

Sec. 5. [332.35] **Prior conviction or judgment as disqualification.** No license shall be issued to any person, firm, corporation or association who or which, or any of the officers of which have, within the past five years, been convicted in any court of fraud or any felony or have been convicted of or had judgment entered against them in any court for failure to account to a client or customer for money or property collected by them for the client or customer. No license shall be issued to any attorney whose license to practice law has been suspended or revoked, for a period of five years after the date of such suspension or revocation.

Sec. 6. [332.36] **Advisory board created.** Subdivision 1. There is created a board to be known as the collection agency advisory board whose duties shall be to advise the department as to the administration of the provisions of this act and in the making of any rules and regulations in accordance with the provisions of section 14. Such board shall consist of three members appointed by the governor. Two of these members shall have been residents of the state for not less than five years immediately prior to their appointment and shall have been engaged in the collection business for not less than five years and be so engaged at the time of their appointment; the third member shall have been a resident of the state for not less than five years immediately prior to his appointment and shall not be en-

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gaged in the collection business at the time of his appointment and shall be over the age of 21 years.

Subd. 2. Within 30 days after the effective date of this act, the governor shall appoint the three members of the board who shall hold office for the following periods of time from the effective date of this act: one for one year; one for two years; and one for three years. On the expiration of the term of any member of the board, the governor shall appoint a successor for a term of three years. In the event of a vacancy on the board, the governor shall fill the vacancy by appointing a member to serve during the unexpired term of the member whose office has become vacant. A member of the board may be removed by the governor after an opportunity to be heard, for malfeasance, misfeasance or neglect in office.

Subd. 3. The board shall meet at least three times each year. Special meetings shall be called at the request of the department or upon the written request of a majority of the members of the board. All recommendations by the board to the department shall require the affirmative vote of a majority of the members of the board.

Subd. 4. Membership on the board shall not constitute the holding of a public office, and members of the board shall not be required to take and file oaths of office or submit a public official's bond before serving on the board.

Subd. 5. The members of the board shall receive no compensation for their services but shall be allowed their actual and necessary expenses incurred in the performance of their duties, including, but not limited to, lodging, meals and travel expenses.

Subd. 6. No member of the board shall be disqualified from holding any public office or employment, by reason of his appointment to the board, nor shall he forfeit any such office or employment notwithstanding any general, special, or local restriction, or ordinance, or city charter to the contrary.

Sec. 7. [332.37] **Prohibited practices.** No collection agency shall: (1) in collection letters or publications, or in any communication, oral or written threaten wage garnishment or legal suit by a particular lawyer, unless it has actually retained such lawyer;

(2) use or employ justices of the peace, constables, sheriffs or any other officer authorized to serve legal papers in connection with the collection of a claim, except when performing their legally authorized duties;

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(3) use or threaten to use methods of collection which violate Minnesota law;

(4) furnish legal advice or otherwise engage in the practice of law or represent that it is competent to do so;

(5) communicate with debtors in a misleading or deceptive manner by using the stationery of a lawyer, forms or instruments which only lawyers are authorized to prepare, or instruments which simulate the form and appearance of judicial process;

(6) exercise authority on behalf of a creditor to employ the services of lawyers unless the creditor has specifically authorized the agency in writing to do so and the agency's course of conduct is at all times consistent with a true relationship of attorney and client between the lawyer and the creditor;

(7) publish or cause to be published any list of debtors except for credit reporting purposes, use shame cards or shame automobiles, advertise or threaten to advertise for sale any claim as a means of forcing payment thereof, or use similar devices or methods of intimidation;

(8) refuse to return any claim or claims and all valuable papers deposited with a claim or claims upon written request of the creditor, claimant or forwarder after tender of such amounts due and owing to the agency within 30 days after such request; refuse or intentionally fail to account to its clients for all money collected within 30 days from the last day of the month in which the same is collected; or, refuse or fail to furnish at intervals of not less than 90 days upon written request of the claimant or forwarder, a written report upon claims received from such claimant or forwarder;

(9) operate under a name or in a manner which implies that such agency is a branch of or associated with any department of federal, state, county or local government or an agency thereof;

(10) commingle money collected for a customer with the agency's operating funds or use any part of a customer's money in the conduct of the agency's business;

(11) transact business or hold itself out as a debt prorater, debt adjuster, or any person who settles, adjusts, prorates, pools, liquidates or pays the indebtedness of a debtor, unless there is no charge to the debtor, or the pooling or liquidation is done pursuant to court order or under the supervision of a creditors committee.

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Sec. 8. [332.38] **Application in case of pretended purchase, assignment or use of a fictitious name.** The provisions of sections 1 to 19 shall apply to any person who, by any device, subterfuge or pretense, makes a pretended purchase or takes a pretended assignment of accounts from any other person for the purpose of evading provisions of sections 1 to 19, or, uses a fictitious name or any name other than his or its own name which would indicate to the debtor that a third person is collecting or attempting to collect such account or claim.

Sec. 9. [332.39] **Injunctions.** The attorney general or the county attorney of any county may apply for an injunction in district court to enjoin any violations of sections 1 to 19, or any practices prohibited in section 7, and any such court may issue temporary or permanent injunctions as the circumstances shall require. Such injunctive proceedings shall be in addition to and not in lieu of penalties and remedies otherwise provided in sections 1 to 19.

Sec. 10. [332.40] **Investigation, suspension and revocation of licenses.** The department may investigate the collection records of a licensee and for that purpose the department shall have free access to the books and records of a licensee relating thereto. If a licensee violates any provision of sections 1 to 19, or any administrative rules issued pursuant to sections 1 to 19, fails to maintain its financial condition sufficient to qualify for a license on an original application, or, fails to maintain its registration or comply with all of the requirements of Minnesota Statutes 1967, Chapter 303, the department may, after notice and hearing in accordance with the provisions of the laws of this state governing proceedings before administrative agencies, revoke a license or suspend such license for such period as he may deem proper.

Sec. 11. [332.41] **Appeals.** Subdivision 1. In the rejection of an application for a license or the renewal thereof filed under sections 1 to 19 or of the suspension or revocation of a license granted under sections 1 to 19 the applicant or licensee may within 90 days after receipt of notice of such rejection, suspension, or revocation, file an appeal and thereafter prosecute the appeal in accordance with the provisions of the statutes governing appeal from, or review of, decisions of administrative agencies in this state.

Subd. 2. The filing of an appeal from an order of the department rejecting an application for a license by a collection agency engaged in business as of the effective date of sections 1 to 19, or rejecting an application for the renewal of a license, or suspending or revoking a license within 60 days after the date of such order, shall op-

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erate as a supersedeas which shall continue pending final determination of such appeal.

Sec. 12. [332.42] **Reports and records.** Subdivision 1. The department may at any time require a licensee to submit to it a verified financial statement for examination by the department so that it may determine whether the licensee is financially responsible to carry on a collection agency business within the intents and purposes of sections 1 to 19.

Subd. 2. The department shall require the licensee to keep such books and records in his place of business in this state as will enable the department to determine whether there has been compliance with the provisions of this act, unless the agency is a foreign corporation duly authorized, admitted and licensed to do business in this state and complies with all the requirements of Minnesota Statutes 1967, Chapter 303 and with all other requirements of sections 1 to 19. Every licensee shall preserve the records of final entry used in such business for a period of five years after final remittance is made on any amount placed with licensee for collection or after any account has been returned to the claimant on which one or more payments have been made.

Sec. 13. [332.43] **Delinquent collection agencies.** Subdivision 1. If the department shall determine that a licensee is insolvent or that he has collected accounts but has failed to remit money due to any claimant or forwarder within 60 days from the end of the month in which collection was made or when the license of a collection agency has expired or terminated for any reason whatsoever, the department, if it shall determine such action necessary to protect the public interest may apply to the district court for the county in which the main office of such agency is located for an order authorizing it to take possession of the assets and the books and records of the licensee for the purpose of liquidating or rehabilitating its business and or for such other relief as the nature of the case and the interest of the claimants or forwarders may require. The court, after citing the licensee to show cause why the department should not be authorized to take possession of the assets and books of account and records for the purpose of liquidating or rehabilitating the business of the licensee, and after hearing the allegations and proofs of the parties and determining the facts, may upon the merits dismiss the application, order the department to act as trustee for the rehabilitation of such agency, or, if it shall find such action necessary for the protection of the public, issue its order authorizing the department to take possession of the said books and records and or to liquidate the

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business and or granting such other relief as it may deem necessary under the circumstances.

Subd. 2. In every case where the court shall issue an order authorizing the department to take possession of the said books and records and to liquidate or rehabilitate the business of a licensee, the department shall be vested with all of the powers, duties, authority, and responsibility of a receiver, and without limiting the generality of the foregoing and subject to the approval of the court:

(1) The liquidation or rehabilitation of the business shall be made by and under the supervision of the department either in the name of the department or in the name of the licensee, and the department or its successor shall be vested with title to all of the assets including the proceeds of the bond or bonds which have been filed with the department and the proceeds of any and all money paid direct to the claimant or forwarder by any debtor prior to the date of the order. Money paid to the licensee or to the department after the date of the order shall be disposed of by the department.

(2) The department for the purpose of collection, liquidation or rehabilitation may sell, assign, convey and transfer or approve the sale, assignment, conveyance and transfer of the assets of such collection agency under such terms and conditions as the department may deem best for the best interests of the collection agency or claimants of such collection agency.

(3) The department shall cause notice to be given by advertisement in such newspapers as it may direct weekly for four consecutive weeks after the issuance of the order authorizing it to take possession of the assets of the collection agency, calling on all persons who may have claims against such licensee to bring the same to the department and make legal proof thereof at a place and within a time to be therein specified. The department shall mail a similar notice to all persons whose names appear as claimants or forwarders upon the books and records of the licensee or as may appear in the records of the department. Any claimant or forwarder whose portion of the collection or collections has not been properly remitted shall file a claim which shall be allowed for the amount actually due the claimant or forwarder after deducting any commission or fee that may be due and owing the licensee. If the department doubts the justice and validity of any claim, it may reject the same and serve notice of such rejection upon the claimant either by mail or personally. An affidavit of service of such notice which shall be prima facie evidence thereof shall be filed with the department. The claimant may within 30 days after receipt of notice of rejection file a petition in the court in which

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the proceedings are pending to establish his claim or claims. Claims presented after the expiration of the time fixed in the notice to the claimants or forwarders shall be entitled to receive only liquidating dividends declared after presentation unless otherwise ordered by the court. The court may fix a date after which all claimants may be barred.

(4) Whenever the department shall have paid to each and every claimant or forwarder of such collection agency whose claims as such claimant or forwarder have been duly approved and allowed the full amount of such claims and shall have made proper provisions for unclaimed and unpaid collections and shall have paid all the expenses of the liquidation it shall distribute the remaining assets exclusive of the proceeds of the bond or bonds for the benefit of the general creditors. Any amount remaining after all claimants and forwarders and general creditors have been paid in full shall be turned over to the licensee.

(5) All accounts and valuable papers given to the agency by the claimant or forwarder in the possession of the department pertaining to accounts placed with the agency for collection shall be returned to the claimant or forwarder by the department within 30 days after verification of the claim he has made.

Subd. 3. Nothing herein contained shall preclude a creditor of a collection agency from prosecuting any and all legal actions and pursuing any and all remedies afforded him by the laws of this state for the collection of debts until such time as the department shall take possession of the collection agency under the provisions of sections 1 to 19.

Sec. 14. **[332.44] Rule making power.** The department shall make and file in accordance with the provisions of Minnesota Statutes 1967, Chapter 15, all reasonable rules and regulations as shall be necessary for the administration of sections 1 to 19.

Sec. 15. **[332.45] Liability of sureties.** Sureties for collection agencies who have executed bonds pursuant to Minnesota Statutes 1967, Sections 332.01 to 332.03 shall not be liable for any new liabilities incurred by the collection agency after the department has approved that agency's bond as required by section 4 of this act.

Sec. 16. **[332.46] Application date.** All collection agencies must apply for the license mentioned in section 3 within 60 days from the effective date of sections 1 to 19.

Sec. 17. **Repeal.** Minnesota Statutes 1967, Sections 332.01, 332.02, and 332.03, are repealed.

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Sec. 18. **Effective date.** Sections 1 to 19 take effect on July 1, 1969.

Approved May 27, 1969.

CHAPTER 767—H. F. No. 584

[Coded]

An act relating to crimes and criminals; denying or interfering with the use of public property; providing a penalty.

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

Section 1. [624.72] **Crimes and criminals; interference with use of public property.** [Subdivision 1.] The state of Minnesota acknowledges and reaffirms the right of its citizens to petition, peacefully and in an orderly manner, all levels and units of government for the redress of grievances of whatever nature, but also affirms that functions and proceedings of governmental bodies and agencies must remain free from organized or calculated confusion, disturbance or delay, and that to this end rules and regulations for the governance of public property and business lawfully promulgated must be observed.

Sec. 2. [624.72] [Subd. 2.] As used in this act, "public property" means any building or other property owned by or in control of the state or any of its political subdivisions or of the Board of Regents of the University of Minnesota.

Sec. 3. [624.72] [Subd. 3.] For the purpose of protecting the free, proper and lawful access to, egress from and proper use of public property, and for the purpose of protecting the conduct of public business therein or thereon, free from interference, or disruption or the threat thereof, the legislature or any public officer, agency or board having the supervision thereof may to that end promulgate reasonable rules and regulations.

Sec. 4. [624.72] [Subd. 4.] Violation of a rule or regulation which has been published, posted, or announced in a reasonable manner at the time of such conduct shall be prima facie evidence of intent to violate this act.

Sec. 5. [624.72] [Subd. 5.] Whoever, intentionally, or through coercion, force or intimidation, denies or interferes with the

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