

SENATE
STATE OF MINNESOTA
EIGHTY-SEVENTH LEGISLATURE

S.F. No. 1888

(SENATE AUTHORS: THOMPSON, Chamberlain, Gerlach, Daley and Sparks)

DATE	D-PG	OFFICIAL STATUS
02/15/2012	3823	Introduction and first reading Referred to Commerce and Consumer Protection
03/01/2012		Comm report: To pass as amended and re-refer to Judiciary and Public Safety

A bill for an act
relating to debt collectors; amending procedures for licensure of debt collection
agencies and registration of individual debt collectors; amending Minnesota
Statutes 2010, sections 332.33, subdivisions 4, 7, 8; 332.35; 332.40, subdivision
1.

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

Section 1. Minnesota Statutes 2010, section 332.33, subdivision 4, is amended to read:

Subd. 4. **Investigations.** The commissioner may require financial statements
and references of all applicants for a collection agency license ~~or registration~~ as the
commissioner considers necessary. The commissioner 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 the initial investigation, not to exceed
\$500, and for that purpose may require a deposit against the cost of the investigation as the
commissioner considers adequate. The investigation may cover all managerial personnel
employed by or associated with the applicant.

Sec. 2. Minnesota Statutes 2010, section 332.33, subdivision 7, is amended to read:

Subd. 7. **Notice.** A licensed collection agency ~~or registered individual collector~~
must give the commissioner written notice of a change in ~~personal name~~, company
name, address, or ownership not later than 15 days after the change occurs. A registered
individual collector must give written notice of a change of address or name at annual
registration renewal.

Sec. 3. Minnesota Statutes 2010, section 332.33, subdivision 8, is amended to read:

Subd. 8. **Screening process requirement.** Each licensed collection agency must establish procedures to follow when screening an individual collector applicant prior to submitting an applicant to the commissioner for initial registration and at renewal. The screening process for initial registration of an individual collector shall consist of a criminal history record check and a statewide county search through a vendor that is a member of the National Association of Professional Background Screeners for all states of residence of the applicant within the five years immediately preceding the initial registration, to determine whether the applicant is eligible to be registered under section 332.35. Screening for renewal of individual collector registration shall consist of a public records search with the Bureau of Criminal Apprehension or equivalent. Screening for renewal of individual collector registrations shall take place no more than 60 days before license expiration or renewal date. The commissioner may review the procedures to ensure the integrity of the screening process. Failure by a licensed collection agency to establish these procedures is subject to action under section 332.40.

Sec. 4. Minnesota Statutes 2010, section 332.35, is amended to read:

332.35 PRIOR CONVICTION OR JUDGMENT AS DISQUALIFICATION.

No registration shall be accepted for, and 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:

~~(1) been convicted in of 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 registration shall be accepted for, and 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;~~

(2) been convicted of any misdemeanor or gross misdemeanor involving any financial crime;

(3) been unable to certify that they have no civil judgments against them for failure to account to a client or customer for money or property collected by them for the client or customer. A civil judgment does not disqualify an applicant for registration under this section, or under section 45.027, subdivision 7, clause (4), unless the civil judgment is for failure to account to a client or customer for money or property; or

(4) had a license to practice law revoked or suspended for cause.

Sec. 5. Minnesota Statutes 2010, section 332.40, subdivision 1, is amended to read:

3.1 Subdivision 1. **Examination of licensee's or registered individual collector's**
3.2 **records.** (a) The commissioner of commerce may make examinations of the collection
3.3 records of a licensee or registered individual collector at a reasonable time and in a scope
3.4 as is necessary to enforce the provisions of sections 332.31 to 332.45, and for that purpose
3.5 the commissioner shall have free access to the books and records of a licensee or registered
3.6 individual collector relating thereto. If a licensee or registered individual collector violates
3.7 any provision of sections 332.31 to 332.45, or any administrative rules issued pursuant
3.8 to sections 332.31 to 332.45, fails to maintain its financial condition sufficient to qualify
3.9 for licensure or registration on an original application, or, fails to maintain its registration
3.10 or comply with all of the requirements of chapter 303, the commissioner may, after
3.11 notice and hearing in accordance with the provisions of the laws of this state governing
3.12 proceedings before administrative agencies, revoke a license or registration, or suspend a
3.13 license or registration for a period as the commissioner deems proper.

3.14 (b) If a licensee or registered individual collector allegedly violates any provision of
3.15 sections 332.31 to 332.3351, 332.355, and 332.38 to 332.45, or administrative rules for
3.16 any of those sections, the commissioner shall notify the licensee or individual registered
3.17 collector of violations. The licensee or individual registered collector shall have 30 days
3.18 to address alleged violations without financial obligation or penalty.