

CHAPTER 2870

DEPARTMENT OF COMMERCE

COLLECTION AGENCIES

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2870.0100 DEFINITIONS.

Subpart 1. **Board.** "Board" means the collection agency advisory board.

Subp. 2. **Commissioner.** "Commissioner" means the commissioner of commerce.

Subp. 3. **Collection agency.** "Collection agency" means and includes:

A. Any person engaged in the business of collection for others any account, bill, or other indebtedness except as provided in Laws of Minnesota 1969, chapter 766. 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.

B. Agencies whose principal place of business is outside the state of Minnesota; and whose solicitors work within the state to sell collection systems or solicit accounts for collection, and/or whose collectors collect accounts within the state.

Subp. 4. **Division.** "Division" means the Registration and Licensing Division of the Department of Commerce.

Statutory Authority: *MS s 332.311*

2870.0200 EXPENSES.

Members of the board shall be reimbursed their actual and necessary expenses incurred while attending regular or special meetings in accordance with the established travel rules of the state of Minnesota.

Statutory Authority: *MS s 332.311*

LICENSING

2870.1100 FORMS.

All persons seeking to operate a collection agency in the state of Minnesota shall file and obtain a license from the division. The department will supply upon request:

- A. application forms;
- B. bond forms;
- C. questionnaire for each officer or manager; and
- D. financial statement forms.

Statutory Authority: *MS s 332.311*

2870.1200 INVESTIGATION FEE.

Applicants for a new license shall pay an investigation fee as determined by the division, subject to the provisions of the law.

Statutory Authority: *MS s 332.311*

2870.1300 [Repealed, L 1993 c 295 s 8]

2870.1400 UNFORESEEN CHANGES; NOTICE TO COMMISSIONER.

Subpart 1. **Office.** Every licensee shall notify the commissioner of any change of office location within ten days of such change.

Subp. 2. **Death.** Upon the death of any collection agency licensee, the license of the decedent may be transferred to the executor or administrator of the estate for the unexpired term of the license. The executor or administrator may be authorized to continue or discontinue the collection business of the decedent under the direction of the court having jurisdiction of the probate.

Subp. 3. **Ownership; personnel.** Any changes in ownership, controlling interest, or personnel from that reported on the application shall be reported to the division within ten days.

Statutory Authority: *MS s 332.311*

History: *17 SR 1279*

2870.1500 LICENSE RENEWAL.

Subpart 1. **Forms.** The division will supply license renewal forms.

Subp. 2. **Submission.** Completion of forms specified in subpart 1 and submission to the division must be made at least 45 days prior to expiration date on the license.

Statutory Authority: *MS s 332.311*

2870.1600 [Repealed, L 1993 c 295 s 8]

2870.1700 INSPECTION OF BOOKS AND RECORDS.

The division may investigate the collection records of a licensee, and for that purpose the division shall have free access to the books and records of a licensee.

Statutory Authority: *MS s 332.311*

2870.1800 INSPECTION OF FORM LETTERS AND STATIONERY.

All form letters and stationery used or sold by the collection agency shall be available at all times for inspection by the division.

Statutory Authority: *MS s 332.311*

2870.1900 NOTICE OF REJECTION OR SUSPENSION.

Written notice of the rejection of an application, or written notice of the revocation or suspension of a license, and the reasons for such rejection, revocation, or suspension shall be served by mail upon the applicant at the address stated in the application or license.

Statutory Authority: *MS s 332.311*

History: *17 SR 1279*

2870.2000 HEARING RIGHTS REGARDING REJECTION, REVOCATION, OR SUSPENSION.

Applicants shall have 30 days from receipt of the notice of rejection or notice of revocation or suspension in which to make application for hearing before the commissioner or an appointee.

Statutory Authority: *MS s 332.311*

History: *17 SR 1279*

2870.2100 APPLICATION FOR HEARING ON REJECTION, REVOCATION, OR SUSPENSION.

Application for hearing shall contain:

- A. the name and address of applicant;
- B. a statement of the nature of the determination requested; and
- C. attested signature of the applicant.

Statutory Authority: *MS s 332.311*

2870.2200 NOTICE OF APPLICATION FOR HEARING.

The division shall serve upon the applicant a notice of application within five days after receipt of application for hearing. The notice of application shall be served by mail and contain:

- A. a general statement of the issues;
- B. a statement of rights of parties;
- C. notification of when and where prehearing conference will be held;
- D. a statement of the purpose of the prehearing conference;
- E. signature of a person authorized to initiate a contested case; and
- F. the date of issuance of the notice.

Statutory Authority: *MS s 332.311*

2870.2300 RIGHTS OF PARTIES IN CONTESTED CASE HEARING.

Parties to a contested case shall have all rights under Minnesota Statutes, chapter 14.

Statutory Authority: *MS s 332.311*

SPECIFIC PROHIBITIONS

2870.3100 THREATENING SUIT.

In collection letters or publications, or in any communication, oral or written, the licensee shall not threaten wage garnishment or legal suit by a particular lawyer, unless it has actually retained such lawyer.

Statutory Authority: *MS s 332.311*

2870.3200 EMPLOYING PUBLIC OFFICERS.

The licensee shall not 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.

Statutory Authority: *MS s 332.311*

2870.3300 METHODS OF COLLECTION.

The licensee shall not use or threaten to use methods of collection that violate Minnesota law.

Statutory Authority: *MS s 332.311*

2870.3400 ENGAGING IN PRACTICE OF LAW.

The licensee shall not furnish legal advice or otherwise engage in the practice of law or represent that it is competent to do so.

Statutory Authority: *MS s 332.311*

2870.3500 COMMUNICATING WITH DEBTOR.

The licensee shall not communicate with debtors in a misleading or deceptive manner by using the stationery of a lawyer, forms, or instruments that only lawyers are authorized to prepare, or instruments that simulate the form and appearance of judicial process.

Statutory Authority: *MS s 332.311*

2870.3600 AUTHORIZING LEGAL ACTION.

The licensee shall not 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.

Statutory Authority: *MS s 332.311*

2870.3700 BLACKLISTING AND INTIMIDATING.

The licensee shall not 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.

Statutory Authority: *MS s 332.311*

2870.3800 ACCOUNTING TO CREDITOR.

The licensee shall not refuse to return any claim and all valuable papers deposited with a claim 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; nor 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; nor 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.

Statutory Authority: *MS s 332.311*

2870.3900 IMPROPER AGENCY NAME.

The licensee shall not operate under a name or in a manner that implies that such agency is a branch of or associated with any department of federal, state, county, or local government or an agency thereof.

Statutory Authority: *MS s 332.311*

2870.4000 COMMINGLING OF FUNDS.

The licensee shall not 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.

Statutory Authority: *MS s 332.311*

2870.4100 DEBT PRORATING.

The licensee shall not 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 creditor's committee.

Statutory Authority: *MS s 332.311*

LIQUIDATION

2870.5100 LIQUIDATING AGENCY.

In order to liquidate or rehabilitate a collection business, the division may establish a bank account. The division may both deposit and withdraw from the account.

Statutory Authority: *MS s 332.311*