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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-FIFTH
SESSION

HOUSE FILE No. **1172**

February 19, 2007

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The bill was read for the first time and referred to the Committee on Governmental Operations, Reform, Technology and Elections

March 23, 2007

Committee Recommendation and Adoption of Report:

To Pass and re-referred to the Committee on Taxes

1.1 A bill for an act
1.2 relating to state debt collection; changing certain time limits, collection costs,
1.3 and referrals relating to debt collection duties of commissioner of revenue;
1.4 amending Minnesota Statutes 2006, sections 16D.04, subdivisions 1, 2; 16D.11,
1.5 subdivisions 2, 7; 270C.56, subdivision 1; 270C.63, subdivision 9.

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

1.7 Section 1. Minnesota Statutes 2006, section 16D.04, subdivision 1, is amended to read:

1.8 Subdivision 1. **Duties.** The commissioner shall provide services to the state and ~~its~~
1.9 referring agencies to collect debts owed the state referred for collection under this chapter.

1.10 The commissioner is not a collection agency as defined by section 332.31, subdivision 3,
1.11 and is not licensed, bonded, or regulated by the commissioner of commerce under sections
1.12 332.31 to 332.35 or 332.38 to 332.45. The commissioner is subject to section 332.37,
1.13 except clause (9), (10), (12), or (19). Debts referred to the commissioner for collection
1.14 under section 256.9792 may in turn be referred by the commissioner to the enterprise.

1.15 An audited financial statement may not be required as a condition of debt placement with
1.16 a private agency if the private agency: (1) has errors and omissions coverage under a
1.17 professional liability policy in an amount of at least \$1,000,000; or (2) has a fidelity bond
1.18 to cover actions of its employees, in an amount of at least \$100,000. In cases of debts
1.19 referred under section 256.9792, the provisions of this chapter and section 256.9792 apply
1.20 to the extent they are not in conflict. If they are in conflict, the provisions of section
1.21 256.9792 control. For purposes of this chapter, the referring agency for such debts remains
1.22 the Department of Human Services.

1.23 **EFFECTIVE DATE.** This section is effective January 1, 2008.

2.1 Sec. 2. Minnesota Statutes 2006, section 16D.04, subdivision 2, is amended to read:

2.2 Subd. 2. **Agency participation.** (a) A referring agency ~~may, at its option, must~~
2.3 refer, by electronic means, debts to the commissioner for collection. ~~The ultimate~~
2.4 Responsibility for the debt, including the reporting of the debt to the commissioner of
2.5 finance and the decision with regard to the continuing collection and uncollectibility of the
2.6 debt, remains with the referring agency.

2.7 (b) Before a debt becomes 121 days past due, a referring agency may refer the
2.8 debt to the commissioner for collection at any time after a debt becomes delinquent and
2.9 uncontested and the debtor has no further administrative appeal of the amount of the
2.10 debt. When a debt owed to a ~~state~~ referring agency becomes 121 days past due, the ~~state~~
2.11 referring agency must refer the debt to the commissioner for collection. This requirement
2.12 does not apply if there is a dispute over the amount or validity of the debt, if the debt is the
2.13 subject of legal action or administrative proceedings, or the agency determines that the
2.14 debtor is adhering to acceptable payment arrangements. The commissioner, ~~in consultation~~
2.15 ~~with the commissioner of finance~~, may provide that certain types of debt need not be
2.16 referred to the commissioner for collection under this paragraph. Methods and procedures
2.17 for referral must follow internal guidelines prepared by the commissioner ~~of finance~~.

2.18 (c) If the referring agency is a court, the court must furnish a debtor's Social Security
2.19 number to the commissioner when the court refers the debt.

2.20 **EFFECTIVE DATE.** This section is effective for debts referred on or after January
2.21 1, 2008.

2.22 Sec. 3. Minnesota Statutes 2006, section 16D.11, subdivision 2, is amended to read:

2.23 Subd. 2. **Computation.** At the time a debt is referred, the amount of collection
2.24 costs is equal to ~~15~~ 17 percent of the debt, ~~or 25 percent of the debt remaining unpaid if~~
2.25 ~~the commissioner or private collection agency has to take enforced collection action~~
2.26 ~~by serving a summons and complaint on or entering judgment against the debtor, or by~~
2.27 ~~utilizing any of the remedies authorized under section 16D.08, subdivision 2, except for~~
2.28 ~~the remedies in sections 270C.32 and 270C.65 or when referred by the commissioner for~~
2.29 ~~additional collection activity by a private collection agency.~~ If, after referral of a debt to
2.30 a private collection agency, the debtor requests cancellation of collection costs under
2.31 subdivision 3, the debt must be returned to the commissioner for resolution of the request.

2.32 **EFFECTIVE DATE.** This section is effective for debts referred on or after January
2.33 1, 2008.

3.1 Sec. 4. Minnesota Statutes 2006, section 16D.11, subdivision 7, is amended to read:

3.2 Subd. 7. **Adjustment of rate.** By June 1 of each year, the commissioner of finance
3.3 shall determine the rate of collection costs for debts referred to the enterprise during
3.4 the next fiscal year. The rate is a percentage of the debts in an amount that most nearly
3.5 equals the costs of the enterprise necessary to process and collect referred debts under this
3.6 chapter. In no event shall the rate of collection costs when a debt is first referred exceed
3.7 ~~three-fifths of the maximum collection costs, and in no event shall the rate of the maximum~~
3.8 collection costs exceed 25 percent of the debt. Determination of the rate of collection costs
3.9 under this section is not subject to the fee setting requirements of section 16A.1285.

3.10 **EFFECTIVE DATE.** This section is effective January 1, 2008.

3.11 Sec. 5. Minnesota Statutes 2006, section 270C.56, subdivision 1, is amended to read:

3.12 Subdivision 1. **Liability imposed.** A person who, either singly or jointly with
3.13 others, has the control of, supervision of, or responsibility for filing returns or reports,
3.14 paying taxes, or collecting or withholding and remitting taxes and who fails to do so, or
3.15 a person who is liable under any other law, is liable for the payment of taxes, penalties,
3.16 and interest arising under chapters 295, 296A, 297A, 297F, and 297G, or sections 290.92
3.17 and 297E.02, and, for the taxes listed in this subdivision, the applicable penalties for
3.18 nonpayment under section 289A.60.

3.19 **EFFECTIVE DATE.** This section is effective for personal liability assessments
3.20 made on or after the day following final enactment.

3.21 Sec. 6. Minnesota Statutes 2006, section 270C.63, subdivision 9, is amended to read:

3.22 Subd. 9. **Period of limitations.** The lien imposed by this section shall,
3.23 notwithstanding any other provision of law to the contrary, be enforceable from the time
3.24 the lien arises and for ten years from the date of filing the notice of lien, which must be
3.25 filed by the commissioner within five years after the date of assessment of the tax or final
3.26 administrative or judicial determination of the assessment. A notice of lien filed at the
3.27 Office of the Secretary of State may be transcribed to any county within ten years after the
3.28 date of its filing, but the transcription does not extend the period during which the lien is
3.29 enforceable. A notice of lien filed in one county may be transcribed to the secretary of
3.30 state or to any other county within ten years after the date of its filing, but the transcription
3.31 shall not extend the period during which the lien is enforceable. A notice of lien may be
3.32 renewed by the commissioner before the expiration of the ten-year period for an additional
3.33 ten years. The taxpayer must receive written notice of the renewal.

- 4.1 **EFFECTIVE DATE.** This section is effective for liens transcribed on or after the
- 4.2 day following final enactment.