Minnesota Bill Package Passes with ARM Industry Remote Work and Licensing Provisions

Gov. Tim Walz recently signed the Commerce and Energy Omnibus bill, which includes several accounts receivable management industry-supported provisions. The bill becomes effective Aug. 1.

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News

Minnesota Gov. Tim Walz signed the Commerce and Energy Omnibus bill into law on June 26, which includes several provisions that impact the accounts receivable management industry, thanks in large part to the hard work of the Great Lakes Credit and Collection Association leaders and the unit's lobbyist, Judy Cook. The bill becomes effective Aug. 1.

The omnibus bill is part of the two-year state budget that will drive Minnesota's economic recovery, according to a statement released by the governor, and were signed during a special legislative session.

ACA International and GLCCA's work on the bills date back to 2019, when Minnesota's Department of Commerce (DOC) reached out to GLCCA President Michael Klutho, shareholder at ACA member company Bassford Remele, inviting the unit to weigh in on the DOC's plan to bring debt buyers under its licensing statute and jurisdiction. GLCCA saw this as an opportunity to help craft some additional industry-helpful amendments.

"Fortunately, our efforts paid off," Klutho said. "Minnesota's licensing statute is now updated in several ways that will facilitate consumer communications during collections."

For example, Minnesota's licensing statute previously precluded leaving prerecorded messages using an automatic dialing device. Now, instead of the previous blanket prohibition, such messaging can occur but must stop if a consumer expressly informs the agency/collector to cease such communications

GLCCA's efforts to enhance Minnesota collections didn't end there—members also worked to modernize how the state views remote work.

"While our collaboration with the Department of Commerce on statutory amendments started pre-COVID-19, the pandemic created an opportunity to advocate for collectors working from home," Klutho said. "Starting with negotiations and an ultimate collaboration with the department, an agreement to amend Minnesota's licensing statute to allow collectors to work from home (WFH) under the oversight of their collection agency employers was achieved. Then, working with our lobbyist, we were able to shepherd separate House and Senate bills that allowed WFH. In the end, over a year of focused negotiations with all interested stakeholders, coupled with the insights and efforts of our lobbyist, paid off."

The final bills yielded positive results on the following priority issues:

Collection Agency Employee Work From Home Permitted Until May 31, 2022

- An employee of a collection agency licensed under Minnesota Statutes, chapter 332, may work from a location other than the licensee's business location if the licensee and employee comply with all the requirements of Minnesota Statutes, section 332.33, that would apply if the employee were working at the business location. The fee for a collector registration or renewal under Minnesota Statutes, section 332.33, subdivision 3, entitles the individual collector to work at a licensee's business location or a location otherwise acceptable under this section. An additional branch license is not required for a location used under this section. This section expires May 31, 2022.

Debt Buyer Regulations

- Debt buyers will now be required to be licensed and will be regulated by the Department of Commerce, similar to debt collection agencies, and debt buyers will be subject to the "Prohibited Practices" section of the debt collection licensing statute.
- Debt buyers will need to submit initial license applications by January 1, 2022.
- The Debt Buyer regulation language can be found here , on pages 54.27- 64.7.

Other Collection Law Changes Negotiated by GLCCA with the Dept of Commerce (DOC)

- Minnesota's collection agency licensing statute will no longer prohibit leaving a "recorded" message or using an "automatic dialing announcing device" when placing collection call. This is a significant change. However, if a consumer tells the licensee to stop communicating through an automatic dialing announcing device, the licensee must stop. The language can be found here , page 61.19- 61.24
  - **Caution**: Consult with your attorney regarding the application of Minnesota's separate/general ADAD statute -- Minn. Stat. Section 325E.26, et seq. (ADAD Act).
- Licensees can now use a "registered" d/b/a once it is listed with the DOC—another significant change. The language can be found here , page 62.1-62.3
  - For agencies whose name basically announces that it is in the collection business, this will allow the use of a d/b/a once registered.
  - This will help with the "limited content message" being adopted by the Consumer Financial Protection Bureau's Regulation F.
  - Remember to also register your d/b/a with the Secretary of State and with your insurance company.
- "Affiliated companies" will be able to operate under a single license. The language can be found here , page 55.18-55.25 and 59.5-59.9.
- Allows collection of fees if the amount is expressly authorized by the collection agreement or permitted by law. The language can be found here , page 62.9-62.11
  - This change represents the first step towards getting convenience fees authorized in statute.
  - In negotiations with the DOC leading up to this language, DOC indicated that they are generally not opposed to convenience fees (after all, the DOC charges licensees convenience fees when registering collectors) but asked that this be a placeholder for now to allow for continued discussion on the issue, which will need to involve other stakeholders.

“Proactively amending a statute that impacts collections is far from easy and not for the faint of heart,” Klutho said. “It’s a rollercoaster ride that lasts what seems like an eternity. If you make it to the end, it’s all worth it. Fortunately we survived the ride, which means the collection industry can now utilize the benefits of GLCCA’s efforts for years to come.”

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