Prepared by the North Dakota Legislative Council staff for the Legislative Audit and Fiscal Review Committee
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SUMMARY OF MINNESOTA STATUTE CHAPTER 16D REGARDING STATE DEBT COLLECTION

At the October 7, 1997, Legislative Audit and Fiscal Review Committee meeting, a request was made for the Legislative Council staff to obtain a copy of the Minnesota law which created a centralized collection agency and provide a copy of the law to the committee. Chapter 16D of the Minnesota Statutes relates to the state's debt collection efforts. A copy of the statute is attached as an appendix. This memorandum will provide a summary of the provisions contained in Chapter 16D of the Minnesota Statutes.

Chapter 16D of the Minnesota Statutes requires state agencies to report quarterly to the Commissioner of Finance on the debts owed to the state. The Commissioner of Finance, in consultation with the Commissioners of Revenue and Human Services and the Attorney General, is to establish internal guidelines for the recognition, tracking, reporting, and collection of debts owed to the state. These internal guidelines must include accounting standards, performance measurements, and uniform reporting requirements applicable to all state agencies. The Commissioner of Finance is to require a state agency to recognize, track, report, and attempt to collect debts according to these internal guidelines.

By January 15 of each year the Commissioner of Finance is to report on the management of debts owed to the state, including performance measurements and progress of the debt collection efforts undertaken by state agencies and the Commissioner of Revenue. The report is to be made to the Governor and the chairs of the Committee on Finance in the Senate and the Committee on Ways and Means in the House of Representatives.

Chapter 16D provides that the Commissioner of Revenue shall provide services to the state and its agencies to collect debts owed to the state. The statute provides that debts referred to the Commissioner of Revenue for collection may in turn be referred by the Commissioner of Revenue to the enterprise. The enterprise is defined as the Minnesota Collection Enterprise, a separate unit established by the Commissioner of Revenue to carry out the provisions of Chapter 16D.

Chapter 16D provides that a state agency may at its option refer debts to the Commissioner of Revenue for collection. However, the ultimate responsibility for the debt, including the reporting of the debt to the Commissioner of Finance and the decision with regard to the continuing collection and uncollectibility of the debt, remains with the referring state agency.

Chapter 16D provides that the Commissioner of Revenue shall provide collection services for state agencies and may provide for collection services for a court, in accordance with the terms and conditions of a signed debt qualification plan. Chapter 16D defines a debt qualification plan as an agreement entered into between a referring agency and the Commissioner of Revenue that defines the terms and conditions by which the Commissioner of Revenue will provide collection services to the referring agency. The statute also provides that the Commissioner of Revenue may contract with credit bureaus, private collection agencies, and other entities for the collection of debts.

Chapter 16D provides that the Commissioner of Revenue shall take all reasonable and cost-effective actions to collect debts referred to the commissioner. In addition to the collection remedies available to private collection agencies, the Commissioner of Revenue, with legal assistance from the Attorney General, may utilize any statutory authority granted to the referring agency for purposes of collecting debt owed to that referring agency.

When a debt is determined by a state agency to be uncollectible, the debt may be written off by the state agency from that state agency's financial accounting records and no longer recognized as an account receivable for financial reporting purposes. The determination that a debt is uncollectible does not cancel the legal obligation of the debtor to pay this debt. In accordance with Chapter 16D, a debt is considered to be uncollectible when:

1. All reasonable collection efforts have been exhausted.
2. The cost of further collection action will exceed the amount recoverable.
3. The debt is legally without merit or cannot be substantiated by evidence.
4. The debtor cannot be located.
5. The available assets or income, current or anticipated, that may be available for payment of the debt are insufficient.

6. The debt has been discharged in bankruptcy.
7. The applicable statute of limitations for collection of the debt has expired.
8. It is not in the public interest to pursue collection of the debt.

Chapter 16D provides that the Commissioner of Revenue shall make a case reviewer available to debtors. The case reviewer is to be available to answer a debtor's questions concerning the collection process and to review any collection activity taken. If the case reviewer reasonably believes that the particular action being taken is unreasonable or unfair, the case reviewer may make recommendations to the Commissioner of Revenue in regard to the collection action.

As determined by the Commissioner of Finance, a penalty shall be added to debts referred to the Commissioner of Revenue or private collection agency for collection. If the Commissioner of Revenue or private collection agency collects an amount less than the total due, the payment is applied proportionally to the penalty and the underlying debt. Penalties collected by the Commissioner of Revenue under Chapter 16D shall be deposited in the general fund as nondedicated receipts. Penalties collected by private collection agencies are appropriated to the referring agency to pay the collection fees charged by the private collection agency. Penalty collections in excess of collection agency fees must be deposited in the general fund as nondedicated receipts. Chapter 16D provides that unless otherwise expressly prohibited by law, a state agency may pay for the services of the Commissioner of Revenue or private collection agency from the money collected. The portion of the money collected which must be paid to the Commissioner of Revenue or the collection agency, as its collection fee, is appropriated from the fund to which the money collected is due.

ATTACH:1

MINNESOTA STATUTES

Embracing laws of a general and
permanent nature and certain other laws in force
or to be in force after the 1996 regular session

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CHAPTER 16D

DEBT COLLECTION

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16D.01 CITATION AND SCOPE.

Subdivision 1. **Citation.** This chapter may be cited as the "debt collection act."

Subd. 2. **Scope.** The collection procedures and remedies under this chapter are in addition to any other procedure or remedy available by law. If the referring agency's applicable state or federal law provides for the use of a particular remedy or procedure for the collection of a debt, that particular remedy or procedure governs the collection of that debt to the extent the procedure or remedy is inconsistent with this chapter.

History: *1994 c 632 art 3 s 35*

16D.02 DEFINITIONS.

Subdivision 1. **Application.** The definitions in this section apply to this chapter.

Subd. 2. **Commissioner.** "Commissioner" means the commissioner of revenue.

Subd. 3. **Debt.** "Debt" means an amount owed to the state directly, or through a state agency, on account of a fee, duty, lease, direct loan, loan insured or guaranteed by the state, rent, service, sale of real or personal property, overpayment, fine, assessment, penalty, restitution, damages, interest, tax, bail bond, forfeiture, reimbursement, liability owed, an assignment to the state including assignments under sections 256.72 to 256.87, the Social Security Act, or other state or federal law, recovery of costs incurred by the state, or any other source of indebtedness to the state. Debt also includes amounts owed to individuals for which the state or state agency acts in a fiduciary capacity in providing collection services in accordance with the regulations adopted under the Social Security Act at Code of Federal Regulations, title 45, section 302.33. Debt also includes an amount owed to the courts or University of Minnesota for which the commissioner provides collection services pursuant to contract.

Subd. 4. **Debtor.** "Debtor" means an individual, corporation, partnership, an unincorporated association, a limited liability company, a trust, an estate, or any other public or private entity, including a state, local, or federal government, or an Indian tribe, that is liable for a debt or against whom there is a claim for a debt.

Subd. 5. **Debt qualification plan.** "Debt qualification plan" means an agreement entered into between a referring agency and the commissioner that defines the terms and conditions by which the commissioner will provide collection services to the referring agency.

Subd. 6. **Referring agency.** "Referring agency" means a state agency or a court that has entered into a debt qualification plan with the commissioner to refer debts to the commissioner for collection.

Subd. 7. **State agency.** "State agency" means a state office, officer, board, commission, bureau, division, department, authority, agency, public corporation, or other unit of state government.

Subd. 8. **Enterprise.** "Enterprise" means the Minnesota collection enterprise, a separate unit established by the commissioner to carry out the provisions of this chapter.

History: *1994 c 632 art 3 s 36; 1995 c 254 art 5 s 3,4; 1996 c 390 s 14,15*

16D.03 SUPERVISION OF STATE DEBT COLLECTION.

Subdivision 1. **Responsibility.** The commissioner of finance shall supervise and report on state debt collection.

Subd. 2. **State agency reports.** State agencies shall report quarterly to the commissioner of finance the debts owed to them. The commissioner of finance, in consultation with the commissioners of revenue and human services, and the attorney general, shall establish internal guidelines for the recognition, tracking, reporting, and collection of debts owed the state. The internal guidelines must include accounting standards, performance measurements, and uniform reporting requirements applicable to all state agencies. The commissioner of finance shall require a state agency to recognize, track, report, and attempt to collect debts according to the internal guidelines.

Subd. 3. **Report of the commissioner.** By January 15 of each year, the commissioner of finance shall report on the management of debts owed the state, including performance measurements and progress of the debt collection efforts undertaken by state agencies and the commissioner. The report must be made to the governor and the chairs of the committee on finance of the senate and the committee on ways and means of the house of representatives.

History: *1994 c 632 art 3 s 37; 1996 c 390 s 16,17*

16D.04 COLLECTION ACTIVITIES.

Subdivision 1. **Duties.** The commissioner shall provide services to the state and its agencies to collect debts owed the state. The commissioner is not a collection agency as defined by section 332.31, subdivision 3, and is not licensed, bonded, or regulated by the commissioner of commerce under sections 332.31 to 332.35 or 332.38 to 332.45. The commissioner is subject to section 332.37, except clause (9) or (10). Debts referred to the commissioner for collection under section 256.9792 may in turn be referred by the commissioner to the enterprise. An audited financial statement may not be required as a condition of debt placement with a private agency if the private agency: (1) has errors and omissions coverage under a professional liability policy in an amount of at least $1,000,000; or (2) has a fidelity bond to cover actions of its employees, in an amount of at least $100,000. In cases of debts referred under section 256.9792, the provisions of this chapter and section 256.9792 apply to the extent they are not in conflict. If they are in conflict, the provisions of section 256.9792 control. For purposes of this chapter, the referring agency for such debts remains the department of human services.

Subd. 2. **Agency participation.** A state agency may, at its option, refer debts to the commissioner for collection. The ultimate responsibility for the debt, including the reporting of the debt to the commissioner of finance and the decision with regard to the continuing collection and uncollectibility of the debt, remains with the referring state agency.

Subd. 3. **Services.** The commissioner shall provide collection services for a state agency, and may provide for collection services for a court, in accordance with the terms and conditions of a signed debt qualification plan.

Subd. 4. **Authority to contract.** The commissioner may contract with credit bureaus, private collection agencies, and other entities as necessary for the collection of debts. A private collection agency acting under a contract with the commissioner is subject to sections 332.31 to 332.45, except that the private collection agency may indicate that it is acting under a contract with the commissioner. The commissioner may not delegate the powers provided under section 16D.08 to any nongovernmental entity.

History: *1994 c 632 art 3 s 38; 1995 c 254 art 5 s 5,6; 1996 c 390 s 18,19*

16D.05 PRIORITY OF SATISFACTION OF DEBTS.

Subdivision 1. **Multiple debts.** If two or more debts owed by the same debtor are submitted to the commissioner, amounts collected on those debts must be applied as prescribed in this section.

Subd. 2. **Enforcement of liens.** If the money received is collected on a judgment lien under chapter 550, a lien provided by chapter 514, a consensual lien or security interest, protection of an interest in property through chapter 570, by collection process provided by chapters 551 and 571, or by any other process by which the commissioner is enforcing rights in a particular debt, the money must be applied to that particular debt.

Subd. 3. **Other methods of collection.** If the money is collected in any manner not specified in subdivision 2, the money collected must apply first to the satisfaction of any debts

for child support. Any debts other than child support must be satisfied in the order in time in which the commissioner received the debts from the referring agency.

History: *1994 c 632 art 3 s 39*

16D.06 DEBTOR INFORMATION.

Subdivision 1. **Access to government data not public.** Notwithstanding chapter 13 or any other state law classifying or restricting access to government data, upon request from the commissioner or the attorney general, state agencies, political subdivisions, and statewide systems shall disseminate not public data to the commissioner or the attorney general for the sole purpose of collecting debt. Not public data disseminated under this subdivision is limited to financial data of the debtor or data related to the location of the debtor or the assets of the debtor.

Subd. 2. **Disclosure of data.** Data received, collected, created, or maintained by the commissioner or the attorney general to collect debts are classified as private data on individuals under section 13.02, subdivision 12, or nonpublic data under section 13.02, subdivision 9. The commissioner or the attorney general may disclose not public data:

(1) under section 13.05;

(2) under court order;

(3) under a statute specifically authorizing access to the not public data;

(4) to provide notices required or permitted by statute;

(5) to an agent of the commissioner or the attorney general, including a law enforcement person, attorney, or investigator acting for the commissioner or the attorney general in the investigation or prosecution of a criminal or civil proceeding relating to collection of a debt;

(6) to report names of debtors, amount of debt, date of debt, and the agency to whom debt is owed to credit bureaus and private collection agencies under contract with the commissioner;

(7) when necessary to locate the debtor, locate the assets of the debtor, or to enforce or implement the collection of a debt; and

(8) to the commissioner of revenue for tax administration purposes.

The commissioner and the attorney general may not disclose data that is not public to a private collection agency or other entity with whom the commissioner has contracted under section 16D.04, subdivision 4, unless disclosure is otherwise authorized by law.

History: *1994 c 632 art 3 s 40; 1995 c 254 art 5 s 7; 1996 c 390 s 20*

16D.07 NOTICE TO DEBTOR.

The referring agency shall send notice to the debtor by United States mail or personal delivery at the debtor's last known address at least 20 days before the debt is referred to the commissioner. The notice must state the nature and amount of the debt, identify to whom the debt is owed, and inform the debtor of the remedies available under this chapter.

History: *1994 c 632 art 3 s 41*

16D.08 COLLECTION DUTIES AND POWERS.

Subdivision 1. **Duties.** The commissioner shall take all reasonable and cost–effective actions to collect debts referred to the commissioner.

Subd. 2. **Powers.** In addition to the collection remedies available to private collection agencies in this state, the commissioner, with legal assistance from the attorney general, may utilize any statutory authority granted to a referring agency for purposes of collecting debt owed to that referring agency. The commissioner may also delegate to the enterprise the tax collection remedies in sections 270.06, clauses (7) and (17), excluding the power to subpoena witnesses; 270.66; 270.69, excluding subdivisions 7 and 13; 270.70, excluding subdivision 14; 270.7001 to 270.72; and 290.92, subdivision 23, except that a continuous wage levy under section 290.92, subdivision 23, is only effective for 70 days, unless no competing wage garnishments, executions, or levies are served within the 70–day period, in which case a wage levy is continuous until a competing garnishment, execution, or levy is served in the

second or a succeeding 70-day period, in which case a continuous wage levy is effective for the remainder of that period. A debtor who qualifies for cancellation of the collection penalty under section 16D.11, subdivision 3, clause (1), can apply to the commissioner for reduction or release of a continuous wage levy, if the debtor establishes that the debtor needs all or a portion of the wages being levied upon to pay for essential living expenses, such as food, clothing, shelter, medical care, or expenses necessary for maintaining employment. The commissioner's determination not to reduce or release a continuous wage levy is appealable to district court. The word "tax" or "taxes" when used in the tax collection statutes listed in this subdivision also means debts referred under this chapter. For debts other than state taxes or child support, before any of the tax collection remedies listed in this subdivision can be used, except for the remedies in section 270.06, clauses (7) and (17), if the referring agency has not already obtained a judgment or filed a lien, the commissioner must first obtain a judgment against the debtor.

History: *1994 c 632 art 3 s 42; 1995 c 254 art 5 s 8; 1996 c 390 s 21*

16D.09 UNCOLLECTIBLE DEBTS.

When a debt is determined by a state agency to be uncollectible, the debt may be written off by the state agency from the state agency's financial accounting records and no longer recognized as an account receivable for financial reporting purposes. A debt is considered to be uncollectible when (1) all reasonable collection efforts have been exhausted, (2) the cost of further collection action will exceed the amount recoverable, (3) the debt is legally without merit or cannot be substantiated by evidence, (4) the debtor cannot be located, (5) the available assets or income, current or anticipated, that may be available for payment of the debt are insufficient, (6) the debt has been discharged in bankruptcy, (7) the applicable statute of limitations for collection of the debt has expired, or (8) it is not in the public interest to pursue collection of the debt. The determination of the uncollectibility of a debt must be reported by the state agency along with the basis for that decision as part of its quarterly reports to the commissioner of finance. Determining that the debt is uncollectible does not cancel the legal obligation of the debtor to pay the debt.

History: *1994 c 632 art 3 s 43; 1996 c 390 s 22*

16D.10 CASE REVIEWER.

The commissioner shall make a case reviewer available to debtors. The reviewer must be available to answer a debtor's questions concerning the collection process and to review the collection activity taken. If the reviewer reasonably believes that the particular action being taken is unreasonable or unfair, the reviewer may make recommendations to the commissioner in regard to the collection action.

History: *1994 c 632 art 3 s 44*

16D.11 COLLECTION PENALTY.

Subdivision 1. **Imposition.** As determined by the commissioner of finance, a penalty shall be added to the debts referred to the commissioner or private collection agency for collection. The penalty is collectible by the commissioner or private agency from the debtor at the same time and in the same manner as the referred debt. The referring agency shall advise the debtor of the penalty under this section and the debtor's right to cancellation of the penalty under subdivision 3 at the time the agency sends notice to the debtor under section 16D.07. If the commissioner or private agency collects an amount less than the total due, the payment is applied proportionally to the penalty and the underlying debt. Penalties collected by the commissioner under this subdivision or retained under subdivision 6 shall be deposited in the general fund as nondedicated receipts. Penalties collected by private agencies are appropriated to the referring agency to pay the collection fees charged by the private agency. Penalty collections in excess of collection agency fees must be deposited in the general fund as nondedicated receipts.

Subd. 2. **Computation.** Beginning July 1, 1995, at the time a debt is referred, the amount of the penalty is equal to 15 percent of the debt, or 25 percent of the debt remaining unpaid if the commissioner or private collection agency has to take enforced collection ac-

tion by serving a summons and complaint on or entering judgment against the debtor, or by utilizing any of the remedies authorized under section 16D.08, subdivision 2, except for the remedies in sections 270.06, clause (7), and 270.66 or when referred by the commissioner for additional collection activity by a private collection agency. If, after referral of a debt to a private collection agency, the debtor requests cancellation of the penalty under subdivision 3, the debt must be returned to the commissioner for resolution of the request.

Subd. 3. **Cancellation.** The penalty imposed under subdivision 1 shall be canceled and subtracted from the amount due if:

(1) the debtor's household income as defined in section 290A.03, subdivision 5, excluding the exemption subtractions in subdivision 3, paragraph (3) of that section, for the 12 months preceding the date of referral is less than twice the annual federal poverty guideline under United States Code, title 42, section 9902, subsection (2);

(2) within 60 days after the first contact with the debtor by the enterprise or collection agency, the debtor establishes reasonable cause for the failure to pay the debt prior to referral of the debt to the enterprise;

(3) a good faith dispute as to the legitimacy or the amount of the debt is made, and payment is remitted or a payment agreement is entered into within 30 days after resolution of the dispute;

(4) good faith litigation occurs and the debtor's position is substantially justified, and if the debtor does not totally prevail, the debt is paid or a payment agreement is entered into within 30 days after the judgment becomes final and nonappealable; or

(5) penalties have been added by the referring agency and are included in the amount of the referred debt.

Subd. 4. **Appeal.** Decisions of the commissioner denying an application to cancel the penalty under subdivision 3 are subject to the contested case procedure under chapter 14.

Subd. 5. **Refund.** If a penalty is collected and then canceled, the amount of the penalty shall be refunded to the debtor within 30 days. The amount necessary to pay the refunds is annually appropriated to the commissioner.

Subd. 6. **Charge to referring agency.** If the penalty is canceled under subdivision 3, an amount equal to the penalty is retained by the commissioner from the debt collected, and is accounted for and subject to the same provisions of this chapter as if the penalty had been collected from the debtor.

Subd. 7. **Adjustment of rate.** By June 1 of each year, the commissioner of finance shall determine the rate of the penalty for debts referred to the enterprise during the next fiscal year. The rate is a percentage of the debts in an amount that most nearly equals the costs of the enterprise necessary to process and collect referred debts under this chapter. In no event shall the rate of the penalty when a debt is first referred exceed three–fifths of the maximum penalty, and in no event shall the rate of the maximum penalty exceed 25 percent of the debt. Determination of the rate of the penalty under this section is not rulemaking under chapter 14, and is not subject to the fee setting requirements of section 16A.1285.

History: *1995 c 254 art 5 s 9; 1996 c 390 s 23,24*

16D.12 PAYMENT OF COLLECTION AGENCY FEES.

Unless otherwise expressly prohibited by law, a state agency may pay for the services of the commissioner or a private collection agency from the money collected. The portion of the money collected which must be paid to the commissioner or the collection agency as its collection fee is appropriated from the fund to which the collected money is due.

History: *1995 c 254 art 5 s 10; 1996 c 390 s 25*

16D.13 INTEREST.

Subdivision 1. **Authority.** Unless otherwise provided by contract out of which the debt arises or by state or federal law, a state agency shall charge simple interest on debts owed to the state at the rate provided in subdivision 2 if notice has been given in accordance with this subdivision. Interest charged under this section begins to accrue on the 30th calendar day following the state agency's first written demand for payment that includes notification to the debtor that interest will begin to accrue on the debt in accordance with this section.

Subd. 2. **Computation.** Notwithstanding chapter 334, the rate of interest is the rate determined by the state court administrator under section 549.09, subdivision 1, paragraph (c).

Subd. 3. **Exclusion.** A state agency may not charge interest under this section on overpayments of assistance benefits under sections 256.031 to 256.0361, 256.72 to 256.87, chapters 256D and 256I, or the federal food stamp program. Notwithstanding this prohibition, any debts that have been reduced to judgment under these programs are subject to the interest charges provided under section 549.09.

History: *1995 c 254 art 5 s 11*

16D.14 VENUE.

Subdivision 1. **Authorization.** The commissioner or the attorney general may bring an action to recover debts owed to the state in Ramsey county district court or Ramsey county conciliation court at the discretion of the state. In order to bring a cause of action under this section in any county other than the county where the debtor resides or where the cause of action arose, the commissioner or the attorney general must notify the debtor as provided in subdivisions 2 to 4, unless that venue is authorized by other law.

Subd. 2. **Conciliation court; claims for $2,500 or less.** (a) Before bringing a conciliation court action for a claim for $2,500 or less under this section in any county other than where the debtor resides or where the cause of action arose, the commissioner or the attorney general shall send a form by first class mail to the debtor's last known address notifying the debtor of the intent to bring an action in Ramsey county. The commissioner or attorney general must enclose a form for the debtor to use to request that the action not be brought in Ramsey county and a self-addressed, postage paid envelope. The form must advise the debtor of the right to request that the action not be brought in Ramsey county and that the debtor has 30 days from the date of the form to make this request.

(b) If the debtor timely returns the form requesting the action not be brought in Ramsey county, the commissioner or attorney general may only file the action in the county of the debtor's residence, the county where the cause of action arose, or as provided by other law. The commissioner or attorney general shall notify the debtor of the action taken. If the debtor does not timely return the form, venue is as chosen by the commissioner or attorney general as authorized under this section.

(c) If a judgment is obtained in Ramsey county conciliation court when the form was sent by first class mail under this subdivision and the debtor reasonably demonstrates that the debtor did not reside at the address where the form was sent or that the debtor did not receive the form, the commissioner or the attorney general shall vacate the judgment without prejudice and return any funds collected as a result of enforcement of the judgment. Evidence of the debtor's correct address include, but are not limited to, a driver's license, homestead declaration, school registration, utility bills, or a lease or rental agreement.

Subd. 3. **Conciliation court claims exceeding $2,500.** (a) In order to bring a conciliation court claim that exceeds $2,500 under this section in a county other than where the debtor resides or where the cause of action arose, the commissioner or the attorney general shall serve with the conciliation court claim a change of venue form for the debtor to use to request that venue be changed and a self-addressed, postage paid return envelope. This form must advise the debtor that the form must be returned within 30 days of the date of service or venue will remain in Ramsey county.

(b) If the debtor timely returns the change of venue form requesting a change of venue, the commissioner or attorney general shall change the venue of the action to the county of the debtor's residence, the county where the cause of action arose, as provided by other law, or dismiss the action. The commissioner or attorney general must notify the debtor of the action taken. If the debtor does not timely return the form, venue is as chosen by the commissioner or attorney general as authorized under this section. The commissioner or the attorney general shall file the signed return receipt card or the proof of service with the court.

Subd. 4. **District court.** (a) In order to bring a district court action under this section in any county other than where the debtor resides or where the cause of action arose, the commissioner or attorney general shall serve the change of venue form with the summons and complaint or petition commencing the collection action. Two copies of the form must be

served along with a self-addressed, postage paid return envelope. The form must advise the debtor that the form must be returned within 20 days of the date of service or venue will remain in Ramsey county. If the debtor timely returns the change of venue form, the time to answer the summons and complaint or petition runs from the date of debtor's request for change of venue.

(b) If the debtor timely returns the change of venue form requesting that the action not be brought in Ramsey county, the commissioner or attorney general shall change the venue of the action to the county of the debtor's residence, the county where the cause of action arose, as provided by other law, or dismiss the action. The commissioner or attorney general shall notify the debtor of the action taken. If the debtor is served the form to change venue along with the district court summons and complaint or petition, in accordance with court rules, but does not return the form within the statutory timelines, venue is as chosen by the commissioner or attorney general as authorized under this section. The commissioner or attorney general shall file the proof of service along with the summons and complaint or petition commencing the lawsuit.

Subd. 5. **Fees.** No court filing fees, docketing fees, or release of judgment fees may be assessed against the state for collection actions filed under this chapter.

History: *1995 c 254 art 5 s 12*

16D.15 COMPROMISE OF DEBT.

Unless expressly prohibited by other federal or state law, a state agency may compromise debts owed to the state, whether reduced to judgment or not, where the state agency determines that it is in the best interests of the state to do so.

History: *1995 c 254 art 5 s 13*

16D.16 SETOFFS.

Subdivision 1. **Authorization.** The commissioner or a state agency may automatically deduct the amount of a debt owed to the state from any state payment due to the debtor, except tax refunds, earned income tax credit, child care tax credit, prejudgment debts of $5,000 or less, funds exempt under section 550.37, or funds owed an individual who receives assistance under the provisions of chapter 256 are not subject to setoff under this chapter. If a debtor has entered into a written payment plan with respect to payment of a specified debt, the right of setoff may not be used to satisfy that debt. Notwithstanding section 181.79, the state may deduct from the wages due or earned by a state employee to collect a debt, subject to the limitations in section 571.922.

Subd. 2. **Notice and hearing.** Before setoff, the commissioner or state agency shall mail written notice by certified mail to the debtor, addressed to the debtor's last known address, that the commissioner or state agency intends to set off a debt owed to the state by the debtor against future payments due the debtor from the state. For debts owed to the state that have not been reduced to judgment, if no opportunity to be heard or administrative appeal process has yet been made available to the debtor to contest the validity or accuracy of the debt, before setoff for a prejudgment debt, the notice to the debtor must advise that the debtor has a right to make a written request for a contested case hearing on the validity of the debt or the right to setoff. The debtor has 30 days from the date of that notice to make a written request for a contested case hearing to contest the validity of the debt or the right to setoff. The debtor's request must state the debtor's reasons for contesting the debt or the right to setoff. If the commissioner or state agency desires to pursue the right to setoff following receipt of the debtor's request for a hearing, the commissioner or state agency shall schedule a contested case hearing within 30 days of the receipt of the request for the hearing. If the commissioner or state agency decides not to pursue the right to setoff, the debtor must be notified of that decision.

History: *1995 c 254 art 5 s 14*