

No. 379, A.]

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CHAPTER 503.

AN ACT to renumber 218.04 (4) to be 218.04 (4) (a) and 218.04 (10) to be 218.04 (10) (a); to amend 218.04 (4) (a), as renumbered, 218.04 (6) (b), (9), and (9m) (a) and (e); to repeal and recreate 218.04 (3) (b), (5) (a) and (b), and (7) (b); and to create 218.04 (4) (b) and (10) (b) of the statutes, relating to regulations of collection agencies, and providing penalties.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 218.04 (3) (b) of the statutes is repealed and recreated to read:

218.04 (3) (b) At the time of making application every applicant for a collection agency license shall pay a fee of \$100 to the commissioner for investigating the application, unless the applicant is already licensed hereunder, and the sum of \$50 as an annual license fee. In the event the cost of investigation exceeds \$100, the applicant shall, upon demand of the commissioner, pay the excess cost. No investigation fee shall be required on the renewal of a license.

SECTION 2. 218.04 (4) of the statutes is renumbered 218.04 (4) (a) and amended to read:

218.04 (4) * * * ISSUANCE OR DENIAL OF LICENSES. (a) * * * *Upon the filing of such application and the payment of such fee, the commissioner shall make his investigation, and if he finds that the character and general fitness and the financial responsibility of the applicant, and the members thereof if the applicant is a partnership or association, and the officers and directors thereof if the applicant is a corporation, warrant the belief that the business will be operated in compliance with this section the commissioner shall thereupon issue a license to said applicant. Such license is not assign-*

able and shall permit operation under it only at or from the location specified in the license. A nonresident of this state may, upon complying with all other provisions of this section, secure a collection agency license provided he maintains an active office in this state.

SECTION 3. 218.04 (4) (b) of the statutes is created to read:

218.04 (4) (b) No licensee shall conduct a collection agency business within any office, room or place of business in which any other business is solicited or engaged in, or in association or conjunction therewith, except as may be authorized in writing by the department upon its finding that the character of such other business is such that the granting of such authority would not facilitate evasion of this section or the lawful orders issued thereunder.

SECTION 4. 218.04 (5) (a) and (b) of the statutes are repealed and recreated to read:

218.04 (5) (a) The commissioner may suspend or revoke any license issued under this section if he finds that 1. the licensee has violated any of the provisions of this section or any lawful order of the commissioner made thereunder or 2. any fact or condition exists which, if it had existed at the time of the original application for such license, would have warranted the commissioner in refusing to issue such license; or 3. the licensee has failed to pay the annual license fee or to maintain in effect the bond required under subsection (3) (d) or 4. the licensee has failed to remit money due to any and all claimants or forwarders within 30 days from the close of the month during which the collection was effected.

(b) No license shall be revoked or suspended except after a hearing. A complaint stating the grounds for suspension or revocation together with a notice of hearing shall be delivered to the licensee at least 5 days in advance of the hearing. In the event the licensee cannot be found, complaint and notice of hearing may be left at the place of business stated in the license and this shall be deemed the equivalent of delivering the notice of hearing and complaint to the licensee.

SECTION 5. 218.04 (6) (b) of the statutes is amended to read:

218.04 (6) (b) Every licensee applying for a renewal of his license shall, on or before the * * * first day of June, pay in advance to the commissioner the annual license fee; *provided that the license fee for the period from the effective date (1949) of this section to June 30, 1950, shall be \$25.*

SECTION 6. 218.04 (7) (b) of the statutes is repealed and recreated to read:

218.04 (7) (b) For the purpose of discovering violations of this section the commissioner may cause an investigation to be made of the business of the licensee transacted under the provisions of this section, and shall cause an investigation to be made of convictions reported to him by any district attorney for violation by a licensee of any of the provisions of this section. The place of business, books of accounts, papers, records, safes and vaults of said licensee shall be open to inspection and examination by the commissioner or his representative for the purpose of such investigation and the commissioner shall have authority to examine under oath all persons whose testimony he may require relative to said investigation. The cost of the first investigation or examination during any licensing year shall be paid by the licensee, but the cost of additional investigation or examination during such year shall be paid by the licensee only if such examination discloses violation of subsection (5) (a) 4 of this section. Said cost shall be determined by prorating the amount of salaries and expenses of all examiners, employes and other persons engaged in examining licensees under this section, if any, and any other expenses which may be attributable thereto. The licensee shall pay the cost of any hearing including witness fees, unless it be found by the commissioner, board of review or court that licensee has not violated any provision of this section. All said costs shall be paid by the licensee within 30 days after demand therefor by the commissioner. The state may maintain an action for the recovery of such costs and expenses in any court of competent jurisdiction.

SECTION 7. 218.04 (9) of the statutes is amended to read:

218.04 (9) * * * *ADMINISTRATIVE REVIEW.* Any licensee or other person in interest being dissatisfied with any order of the commissioner *made under this section* may have a review thereof as provided in * * * *section 220.037.*

SECTION 8. 218.04 (9m) (a) and (e) of the statutes are amended to read:

218.04 (9m) (a) *If the commissioner finds that a licensee is insolvent or that he has collected accounts but has failed to remit money due to any claimant or forwarder within 30 days from the end of the month in which collection was made and it is necessary to protect the interest of the public or when the license of a collection agency has expired or has terminated * * * for any reason whatsoever, he may * * * take possession of the assets and the books and records of the * * * licensee for the purpose of*

liquidating its business, and for such other relief as the nature of the case and the interest of the claimants or forwarders may require. The liquidation of business shall be made by and under the supervision of the commissioner either in the name of the commissioner or in the name of the * * * licensee and the commissioner or his successor shall be vested with title to all of the assets including the proceeds of the bond or bonds which have been filed with the commissioner as provided for under subsection (3) (d), and the proceeds of any and all money paid direct to the claimant or forwarder by the debtor prior to the date said license has terminated. Money paid to the * * * licensee or to the commissioner after the termination of the license shall be disposed of by the commissioner with the approval of the circuit court.

(e) The commissioner shall cause notice to be given by advertisement, if no action has been commenced as provided under paragraph (f) in such newspapers as he may direct, weekly for 4 consecutive weeks, calling on all persons who may have claims against such * * * licensee, to present the same to the commissioner, and make legal proof thereof at a place and within a time, to be therein specified. The commissioner * * * may mail a similar notice to all persons whose names appear as claimants or forwarders upon the books and records of the * * * licensee or as may appear in the records of the commissioner on the sworn reports required to be furnished the commissioner according to the provisions of subsection (10). Any claimant or forwarder whose portion of the collection or collections has not been properly remitted, shall file a claim which shall be considered as a preferred claim for the amount actually due the claimant or forwarder after deducting any commission or fee that may be due and owing the * * * licensee. If the commissioner doubts the justice and validity of any claim, he may reject the same and serve notice of such rejection upon the claimant either by mail or personally. An affidavit of the service of such notice, which shall be prima facie evidence thereof, shall be filed with the commissioner. An action upon a claim so rejected must be brought in the circuit court for the county wherein the * * * licensee is located within 30 days after such service of such notice of rejection of claim has been filed. Claims presented after the expiration of the time fixed in the notice to the claimants or forwarders shall be entitled to receive only liquidating dividends declared after presentation, unless otherwise ordered by the court. *The court may fix a date after which all claims shall be barred.*

SECTION 9. 218.04 (10) of the statutes is renumbered 218.04 (10) (a).

SECTION 10. 218.04 (10) (b) of the statutes is created to read:

218.04 (10) (b) *Records.* The commissioner shall require the licensee to keep such books and records in his place of business as will enable the commissioner to determine whether the provisions of this section are being complied with. Every such licensee shall preserve the records of final entry used in such business for a period of at least 6 years after final remittance is made on any account placed with the licensee for collection or after any account has been returned to the claimant on which one or more payments have been paid.

Approved July 18, 1949.
