

CHAPTER 25

Original House Bill No. 101

COLLECTION AGENCY BOARD

AN ACT to amend W.S. 33-11-103, 33-11-104, 33-11-105, 33-11-107, 33-11-108(a), (c), (d) and (e), 33-11-110, 33-11-111, 33-11-112(a) and (b), 33-11-113 and 33-11-115; and to repeal W.S. 33-11-112(c) relating to the collection agency board; substituting the state examiner for the secretary of state as a member of the board; increasing bonds from collection agencies; requiring resident managers; and providing for an effective date.

Be It Enacted by the Legislature of the State of Wyoming:

Section 1. W.S. 33-11-103, 33-11-104, 33-11-105, 33-11-107, 33-11-108(a), (c), (d) and (e), 33-11-110, 33-11-111, 33-11-112(a) and (b), 33-11-113 and 33-11-115 are amended to read:

33-11-103. Collection agency board; created; composition; appointment, qualifications, etc., of members; vacancies; chairman.

(a) The collection agency board is created and shall consist of three (3) members appointed by the governor. One (1) member shall be the state examiner, one (1) may be an attorney-at-law who is actively engaged in collection work and one (1) shall be a layman engaged in operating a collection agency. No more than one (1) attorney-at-law shall be a member of the board at any time. The state examiner shall serve during the term of his appointive office and members of the board shall be appointed for two (2) years. Members of the board shall serve until their successors are appointed and qualify.

(b) No person shall be appointed as a member of the board, with the exception of the state examiner, who has not been a bona fide resident of the state of Wyoming for a period of at least five (5) years immediately prior to his appointment, and who has not been engaged in the collection business within the state of Wyoming, either as owner, attorney, partner, lessee or officer of a corporation, for a period of five (5) years immediately prior to his appointment.

(c) Upon the death, resignation or removal of any member of the board, the governor shall appoint a member to serve out the unexpired term. Any member of the board, with the exception of the state examiner, may be removed by the governor, after due hearing, upon the complaint of the state examiner, other members of the board or any licensee, for failure to properly perform the duties of his office.

(d) The state examiner shall act as chairman of the board.

33-11-104. Same; per diem and travel expense. All members of the collection agency board shall serve without salary or compensation. Members other than the state examiner shall be allowed per diem and travel expense on the same basis and in the same amount as is paid to other state officers or employees as provided by law when attending any regular

or called meeting of the board. Per diem and travel expense shall be paid solely from the account containing the license fees established and payable under this act.

33-11-105. Same; to assist state examiner, investigate applicants, etc. The board shall assist and advise the state examiner, who shall have charge of the administration of this act. All applications for licenses under this act, shall be referred by the state examiner to the board for its recommendation. The board shall investigate the qualifications of any applicant and report its finding to the state examiner. If the recommendation of the board is unfavorable because of failure of applicant to disclose the required qualifications, the state examiner shall reject the application; otherwise the application shall be approved and a license issued on payment of license fees and filing of bond as required by W.S. 33-11-101 through 33-11-116.

33-11-107. Application for license; financial statement; references. Any person desiring to conduct a collection agency in the state shall apply in writing on forms approved by the state examiner. The application shall contain information prescribed by the board and shall be signed by the applicant and filed with the state examiner. A financial statement of the applicant and references from two (2) or more responsible citizens of this state shall accompany the application. All applicants shall have an established office in Wyoming with a bona fide resident of Wyoming as a resident manager of the office.

33-11-108. Bond of agency; terms, conditions, etc.; notice to surety; new bond.

(a) When the application is granted, the applicant shall be notified and he shall, within twenty (20) days file a bond as required by W.S. 33-11-101 through 33-11-116. The license is valid upon the approval, by the state examiner or the board, of the bond. The bond shall be a bond in the sum of four thousand dollars (\$4,000.00) which shall run to the state of Wyoming and to any party who may be a claimant. The bond shall be executed and acknowledged by the applicant as principal with two (2) valid sureties, to be approved by the board, or by a surety company duly authorized to do business in this state, or by the deposit with the state treasurer of cash, or collateral securities represented by bonds of the United States of America or of the state of Wyoming, or of any municipality thereof, approved by the state examiner in the sum of four thousand dollars (\$4,000.00) par value.

(c) The bond shall cover all matters placed with the licensee during the terms of the license applied for, or renewal and liability shall continue in accordance with W.S. 33-11-109. Any claim under the bond shall be presented to the office of the state examiner, which shall promptly notify the surety. If the surety fails to adjust the claim within thirty (30) days after notice from the state examiner, the claimant may bring suit on the bond in claimant's own name. The aggregate liability of the surety for any and all claims which may arise under the bond shall in no event exceed the amount of the penalty of the bond.

(d) Any licensee may file with the state examiner, at any time, a new bond, and any surety company may file with the state examiner notice of its withdrawal as surety of any licensee, and upon the filing of a new bond or a notice of withdrawal, the liability of the former surety for all future acts of the licensee shall terminate except as provided in W.S. 33-11-109. The state examiner shall cancel the bond of any surety company upon being advised that its license to transact the business of fidelity and surety insurance has been revoked by the insurance commissioner of the state of Wyoming.

(e) Upon filing notice with the state examiner by any surety company of its withdrawal as the surety of any licensee or upon the cancellation by the state examiner of the bond of any surety company, the state examiner shall give notice to the licensee of the withdrawal or cancellation. Upon notification the authority of the licensee to conduct a collection agency terminates. The licensee, within thirty (30) days of termination, may file with the state examiner the bond required. Upon the filing of a new bond, the right of the licensee to conduct a collection agency shall be restored.

33-11-110. License fee; license nontransferable; display. Fees for the licensing of collection agencies shall be set by the board. The state examiner shall collect a fee not to exceed one hundred dollars (\$100.00) for each original license and a fee not to exceed fifty dollars (\$50.00) for each license renewal. The fee for a branch office license or renewal shall not exceed twenty-five dollars (\$25.00). All collection agency licenses shall expire one (1) year from the date of issuance. No license is transferable. Each collection agency license shall be displayed in a conspicuous place in licensee's place of business.

33-11-111. Disposition of fees. All money shall be received and collected as provided by law. The state treasurer shall credit the money to an account within the earmarked revenue fund. All monies paid into the state treasury and credited to the account are appropriated to be used by the state examiner under the direction of the collection agency board for the payment of all necessary expenses incurred in carrying out this act including the per diem compensation of members of the board.

33-11-112. Action upon complaints against agencies; appeals.

(a) Upon the filing with the state examiner by any interested person of a verified written complaint charging any collection agency licensee with the violation of any of the terms of this act, or with conduct that shows the licensee is unworthy to continue to operate a collection agency within this state, the state examiner shall immediately turn over the complaint or complaints to the board, who shall investigate the charges. The board, on its own motion, may make, or cause to be made, an investigation of the conduct of any licensee.

(b) For the purpose of the investigation the state examiner may subpoena any witness or witnesses and require testimony under oath at a hearing before the board, and the time and place of the hearing shall be indicated by written notice to the licensee. The licensee may appear and defend against any charge or charges. If, after the hearing, the board finds the licensee guilty of the charges, his license shall be revoked and cancelled.

33-11-113. Records to be kept. The state examiner shall keep in his office a record of all applications for licenses and all bonds required. The record shall state whether or not a license has been issued under the application and bond, and if revoked, the date of filing the order of revocation. The records shall be open for inspection as a public record in the office of the state examiner.

33-11-115. Prohibited acts; penalty for violations. In addition to other penalties, any person who carries on the business of a collection agency without first having obtained from the state examiner a license, or who carries on a collection agency business after the revocation or expiration of a license, is guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not less than fifty dollars (\$50.00), nor more than five hundred dollars (\$500.00), be imprisoned in the county jail not more than ninety (90) days, or both.

Section 2. W.S. 33-11-112(c) is repealed.

Section 3. This act is effective July 1, 1981.

Approved February 26, 1981.