

Chapter 14

Collection of Student Loans

53B-14-101 Student loan delinquent or in default -- Authority to collect.

If a National Direct Student Loan or a student loan made under Title 53B, Chapter 11, Student Loan Program, or Chapter 12, Higher Education Assistance Authority, is delinquent or in default, the state college, university, or board of regents responsible for collection of the loan may proceed under this chapter to collect the loan.

Enacted by Chapter 167, 1987 General Session

53B-14-102 Mailing of notice of default -- Contents of notice.

- (1) Upon default in payment of a student loan or an installment payment on a student loan, the entity responsible for collecting the loan may send a notice, by certified mail, to the borrower at the borrower's last known address.
- (2) The notice shall state the following:
 - (a) the date and amount of the loan;
 - (b) the balance of the loan;
 - (c) the amount of delinquent installments and the dates they were due;
 - (d) a demand for immediate payment of delinquent installments;
 - (e) the right of the borrower to file a written response to the notice, to have a hearing, to be represented at the hearing, and to appeal any decision of the hearing examiner;
 - (f) the time within which a written response must be filed; and
 - (g) the power of the college, university, or board upon the failure of the borrower to respond or upon a decision of the hearing examiner adverse to the borrower, to obtain an order under this chapter and to execute upon income tax overpayments or refunds of the borrower.

Enacted by Chapter 167, 1987 General Session

53B-14-103 Failure to receive response or payment after notice -- Authority to collect balance.

If a written response or payment of delinquent installments is not received by the college, university, or board within 15 days from the date of receipt of the notice by the borrower, the college, university, or board may determine the balance due and proceed to collect the balance as provided in Section 53B-14-106.

Enacted by Chapter 167, 1987 General Session

53B-14-104 Hearing set after receipt of written notice -- Notice of hearing.

If a written response to the notice sent under Section 53B-14-102 is received by the college, university, or board, a hearing is set within 30 days of the receipt of the response, and written notice of the hearing is mailed to the borrower at least 15 days before the date for the hearing.

Enacted by Chapter 167, 1987 General Session

53B-14-105 Designation of hearing examiner -- Representation at hearing -- Findings and order of examiner -- Continuance of hearing.

- (1) The hearing under Section 53B-14-104 is held before a hearing examiner designated by the college, university, or board.
- (2) The examiner may not be an officer or employee of the division or office of the college, university, or board responsible for collecting or administering student loans.
- (3) The borrower and college, university, or board may be represented at the hearing by an attorney or other person, and may present evidence, exhibits, testimony, witnesses, and other material regarding the student loan, payments, and default as are relevant.
- (4) The hearing examiner shall make specific written findings on the student loan, payments, default, and the balance due and shall enter a written order.
- (5) If the hearing examiner finds the borrower has defaulted, the order shall state the fact of default and the balance due on the loan including interest. If the examiner finds no default, the order shall dismiss the claim.
- (6) The findings and order of the hearing examiner are filed with the college, university, or board and copies mailed to the borrower within 10 days after conclusion of the hearing.
- (7) The hearing may be continued by agreement of the parties and approval of the hearing examiner or upon order of the hearing examiner.

Enacted by Chapter 167, 1987 General Session

53B-14-106 Order stating default -- Filing with tax commission -- Lien of order.

- (1) An abstract of an order of a hearing examiner stating a default under Section 53B-14-105 may be filed with the State Tax Commission and, when filed, constitutes a lien to the extent of the balance due plus interest against any state income tax refund or overpayment due or to become due to the borrower for a period of eight years from the date of the order unless satisfied or otherwise released in writing by the college, university, or board.
- (2) The lien created by this section is, for the purposes of Section 59-10-529 only, a judgment, but no credit of a tax refund or overpayment shall be made on account of the lien until 20 days after the date of the hearing examiner's order.

Enacted by Chapter 167, 1987 General Session

53B-14-107 Judicial review of order -- Filing complaint -- Hearing de novo -- Stay of action on lien by tax commission.

- (1) Judicial review of an order of a hearing examiner issued under Section 53B-14-105 is obtained by any party by filing a complaint with the district court within 20 days after the date of the order.
- (2) If a complaint is filed, the matter is heard by the district court de novo.
- (3) A notice of the filing of a complaint may be filed with the State Tax Commission and, if filed, the tax commission shall take no action with respect to the lien created under Section 53B-14-106 until the matter is finally disposed of by the district court or on appeal from the district court, except as provided in this chapter.

Enacted by Chapter 167, 1987 General Session

53B-14-108 Complaint filed -- Bond furnished by borrower -- Terms of bond.

- (1) If a complaint is filed under Section 53B-14-107, the borrower may furnish to the tax commission a bond, with good and sufficient sureties, in the amount of the balance of the loan or the amount of any overpayment or refund due, whichever is less.

- (2) The lien created under Section 53B-14-106 is then dissolved as to that overpayment or refund and the overpayment or refund released to the borrower.
- (3) The bond shall provide that the surety will pay, upon a final determination adverse to the borrower, the amount of the bond, or a lesser amount as the court may determine, to the tax commission for the use and benefit of the college, university, or board obtaining the order.

Enacted by Chapter 167, 1987 General Session

53B-14-109 Rules for hearings.

The board may adopt rules for the implementation of Sections 53B-14-104 and 53B-14-105, including rules for the conduct of hearings and appointment of hearing examiners.

Enacted by Chapter 167, 1987 General Session