

## **Part 3**

### **Accounts Receivable Collection**

#### **63A-3-301 Definitions.**

As used in this part, "account receivable" means any amount due the state or any other governmental entity as a result of a court or administrative order, or for which materials or services have been provided but for which payment has not been received by the servicing unit.

Amended by Chapter 79, 2011 General Session

#### **63A-3-302 Unpaid accounts receivable due the state.**

If any account receivable has been unpaid for more than 90 days, any agency or other authority of state government, or any political subdivision, as defined in Section 63G-7-102, of the state responsible for collection of the account may proceed under this part to collect the delinquent amount.

Amended by Chapter 129, 2016 General Session

Amended by Chapter 298, 2016 General Session

#### **63A-3-303 Notice to debtor -- Contents.**

- (1) Upon default in payment of any account receivable that is not due pursuant to final court or administrative order or judgment, the entity responsible for collecting the account shall send a notice by mail to the debtor at the debtor's last-known address.
- (2) The notice shall state:
  - (a) the date and amount of the receivable;
  - (b) a demand for immediate payment of the amount;
  - (c) a statement of the right of the debtor 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;
  - (d) the time within which a written response must be filed; and
  - (e) a statement notifying the debtor that the state may obtain an order under this part and execute upon income tax overpayments or refunds of the debtor if:
    - (i) the debtor fails to respond to the notice; or
    - (ii) a hearing is held and the hearing officer decides against the debtor.

Amended by Chapter 79, 2011 General Session

#### **63A-3-304 Effect of nonpayment or failure to respond.**

If a written response or payment of delinquent receivable is not received by the state within 15 days from the date of receipt of the notice by the debtor, the debtor is in default and the state may determine the balance due and collect the balance as provided in Section 63A-3-307.

Amended by Chapter 79, 2011 General Session

#### **63A-3-305 Hearing requested -- Notice to debtor.**

- If a written response is received by the state and a hearing is requested, the state shall:
- (1) set a hearing date within 30 days of the receipt of the response; and
  - (2) mail written notice of the hearing to the debtor at least 15 days before the date of the hearing.

Renumbered and Amended by Chapter 212, 1993 General Session

**63A-3-306 Hearing examiner -- Procedures -- Adjudicative proceedings.**

- (1)
  - (a) The hearing shall be held before a hearing examiner designated by the state.
  - (b) The hearing examiner may not be an officer or employee of the entity in state government responsible for collecting or administering the account.
- (2) The state shall comply with the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act, in its adjudicative proceedings.

Amended by Chapter 382, 2008 General Session

**63A-3-307 Abstract of order and nonpayment or failure to respond -- Liens.**

- (1) The following shall constitute a lien in the amount of the receivable plus interest and collection costs allowed by law against any state income tax refund or overpayment due or to become due the debtor:
  - (a) an abstract of an administrative order; or
  - (b) nonpayment or failure to respond as provided under Section 63A-3-304.
- (2) The lien created by this section shall, for the purposes of Section 59-10-529 only, be considered a judgment, but no credit of a tax refund or overpayment may be made on account of this lien until 20 days after the date of the administrative order.
- (3) The lien created by this section shall remain effective for eight years.

Amended by Chapter 79, 2011 General Session

**63A-3-308 Judicial review -- Effect on lien.**

- (1) A judicial review of a lien created under Section 63A-3-307 may be obtained by any party within one year of the creation of the lien by filing a complaint with the district court.
- (2)
  - (a) A notice of the filing of a complaint may be filed with the State Tax Commission.
  - (b) If notice is filed, the tax commission may take no action with respect to the lien created by Section 63A-3-307 until the matter is finally disposed of by the courts, except as provided in this part.

Amended by Chapter 79, 2011 General Session

**63A-3-309 Bond required -- Terms -- Expenses of debtor.**

- (1)
  - (a) If a complaint is filed by the debtor for judicial review of an order entered under this part, the debtor shall furnish a bond to the State Tax Commission, with good and sufficient sureties, in the amount of the delinquent receivable or the amount of any overpayment or refund due, whichever is less, unless waived by the court.
  - (b) The lien created by Section 63A-3-307 is then dissolved as to that overpayment or refund and the overpayment or refund shall be released to the debtor.
- (2) The bond shall provide that the surety will pay, upon a final determination adverse to the debtor, the amount of the bond or any other lesser amount as the court may determine, to the

State Tax Commission for the use and benefit of the entity of state government obtaining the order.

- (3) If the judicial review finds the claim of the state invalid, the state shall reimburse the debtor all reasonable expenses and attorney's fees incurred.

Renumbered and Amended by Chapter 212, 1993 General Session

**63A-3-310 Rules for implementing part.**

The Board of Examiners may adopt rules for the implementation of this part, including rules for the conduct of hearings and appointment of hearing examiners.

Renumbered and Amended by Chapter 212, 1993 General Session