

Part 5 Office of State Debt Collection

63A-3-501 Definitions.

As used in this part:

- (1)
 - (a) "Accounts receivable" or "receivables" means any amount due to a state agency from an entity for which payment has not been received by the state agency that is servicing the debt.
 - (b) "Accounts receivable" includes:
 - (i) unpaid fees, licenses, taxes, loans, overpayments, fines, forfeitures, surcharges, costs, contracts, interest, penalties, third-party claims, sale of goods, sale of services, claims, and damages;
 - (ii) a civil accounts receivable; and
 - (iii) a civil judgment of restitution.
 - (c) "Accounts receivable" does not include a criminal accounts receivable.
- (2) "Administrative offset" means:
 - (a) a reduction of an individual's tax refund or other payments due to the individual to reduce or eliminate accounts receivable that the individual owes to a state agency; and
 - (b) a reduction of an entity's tax refund or other payments due to the entity to reduce or eliminate accounts receivable that the entity owes to a state agency.
- (3) "Civil accounts receivable" means the same as that term is defined in Section 77-32b-102.
- (4) "Civil judgment of restitution" means the same as that term is defined in Section 77-32b-102.
- (5) "Criminal accounts receivable" means the same as that term is defined in Section 77-32b-102.
- (6) "Entity" means an individual, a corporation, partnership, or other organization that pays taxes to, or does business, with the state.
- (7) "Office" means the Office of State Debt Collection created in Section 63A-3-502.
- (8) "Past due" means any accounts receivable that the state has not received by the payment due date.
- (9) "Political subdivision" means the same as that term is defined in Section 63G-7-102.
- (10) "Restitution" means the same as that term is defined in Section 77-38b-102.
- (11)
 - (a) "State agency" includes:
 - (i) an executive branch agency;
 - (ii) the legislative branch of state government; and
 - (iii) the judicial branches of state government, including justice courts.
 - (b) "State agency" does not include:
 - (i) any institution of higher education;
 - (ii) except in Subsection 63A-3-502(7)(g), the State Tax Commission; or
 - (iii) the administrator of the Uninsured Employers' Fund appointed by the Labor Commissioner under Section 34A-2-704, solely for the purposes of collecting money required to be deposited into the Uninsured Employers' Fund under:
 - (A) Section 34A-1-405;
 - (B) Title 34A, Chapter 2, Workers' Compensation Act; or
 - (C) Title 34A, Chapter 3, Utah Occupational Disease Act.
- (12) "Writing-off" means the removal of an accounts receivable from an agency's accounts receivable records but does not necessarily eliminate further collection efforts.

Amended by Chapter 260, 2021 General Session

63A-3-502 Office of State Debt Collection created -- Duties.

- (1) The state and each state agency shall comply with:
 - (a) the requirements of this chapter; and
 - (b) any rules established by the Office of State Debt Collection.
- (2) There is created the Office of State Debt Collection in the Division of Finance.
- (3) The office shall:
 - (a) have overall responsibility for collecting and managing state receivables;
 - (b) assist the Division of Finance to develop consistent policies governing the collection and management of state receivables;
 - (c) oversee and monitor state receivables to ensure that state agencies are:
 - (i) implementing all appropriate collection methods;
 - (ii) following established receivables guidelines; and
 - (iii) accounting for and reporting receivables in the appropriate manner;
 - (d) assist the Division of Finance to develop policies, procedures, and guidelines for accounting, reporting, and collecting money owed to the state;
 - (e) provide information, training, and technical assistance to each state agency on various collection-related topics;
 - (f) write an inclusive receivables management and collection manual for use by each state agency;
 - (g) prepare quarterly and annual reports of the state's receivables;
 - (h) create or coordinate a state accounts receivable database;
 - (i) develop reasonable criteria to gauge state agencies' efforts in maintaining an effective accounts receivable program;
 - (j) identify any state agency that is not making satisfactory progress toward implementing collection techniques and improving accounts receivable collections;
 - (k) coordinate information, systems, and procedures between each state agency to maximize the collection of past-due accounts receivable;
 - (l) establish an automated cash receipt process between each state agency;
 - (m) assist the Division of Finance to establish procedures for writing off accounts receivable for accounting and collection purposes;
 - (n) establish standard time limits after which an agency will delegate responsibility to collect state receivables to the office or the office's designee;
 - (o) be a real party in interest for:
 - (i) an account receivable referred to the office by any state agency; and
 - (ii) a civil judgment of restitution entered on a civil judgment docket by a court;
 - (p) allocate money collected for a judgment entered on the civil judgment docket under Section 77-18-114 in accordance with Sections 51-9-402, 63A-3-506, and 78A-5-110;
 - (q) if a criminal accounts receivable is transferred to the office under Subsection 77-32b-103(2) (a)(ii), receive, process, and distribute payments for the criminal accounts receivable;
 - (r) provide a debtor online access to the debtor's accounts receivable or criminal accounts receivable in accordance with Section 63A-3-502.5;
 - (s) establish a written policy for each of the following:
 - (i) the settling of an accounts receivable, including any amount of restitution owed to a victim in a civil judgment of restitution if the victim approves of the settlement;

- (ii) allowing a debtor to pay off a single debt as part of an accounts receivable even if the debtor has a balance on another debt as part of an accounts receivable or criminal accounts receivable;
- (iii) setting a payment deadline for settlement agreements and for obtaining an extension of a settlement agreement deadline; and
- (iv) reducing administrative costs when a settlement has been reached;
- (t) consult with a state agency on whether:
 - (i) the office may agree to a settlement for an amount that is less than the debtor's principal amount; and
 - (ii) the state agency may retain authority to negotiate a settlement with a debtor; and
- (u) provide the terms and conditions of any payment arrangement that the debtor has made with a state agency or the office when:
 - (i) the payment arrangement is created; or
 - (ii) the debtor requests a copy of the terms and conditions.
- (4) The office may:
 - (a) recommend to the Legislature new laws to enhance collection of past-due accounts by state agencies;
 - (b) collect accounts receivables for higher education entities, if the higher education entity agrees;
 - (c) prepare a request for proposal for consulting services to:
 - (i) analyze the state's receivable management and collection efforts; and
 - (ii) identify improvements needed to further enhance the state's effectiveness in collecting the state's receivables;
 - (d) contract with private or state agencies to collect past-due accounts;
 - (e) perform other appropriate and cost-effective coordinating work directly related to collection of state receivables;
 - (f) obtain access to records and databases of any state agency that are necessary to the duties of the office by following the procedures and requirements of Section 63G-2-206, including the financial declaration form described in Section 77-38b-204;
 - (g) at rates authorized by the Legislature or set in statute, assess and collect the following interest and fees:
 - (i) a fee to cover the administrative costs of collection on accounts administered by the office;
 - (ii) a late penalty fee that may not be more than 10% of the account receivable on accounts administered by the office;
 - (iii) an interest charge that is:
 - (A) the postjudgment interest rate established by Section 15-1-4 in judgments established by the courts; or
 - (B) not more than 2% above the prime rate as of July 1 of each fiscal year for accounts receivable for which no court judgment has been entered; and
 - (iv) fees to collect accounts receivable for higher education;
 - (h) collect reasonable attorney fees and reasonable costs of collection that are related to the collection of receivables under this chapter;
 - (i) make rules that allow accounts receivable to be collected over a reasonable period of time and under certain conditions with credit cards;
 - (j) for a case that is referred to the office or in which the office is a judgment creditor, file a motion or other document related to the office or the accounts receivable in that case, including a satisfaction of judgment, in accordance with the Utah Rules of Civil Procedure;

- (k) ensure that judgments for which the office is the judgment creditor are renewed, as necessary;
 - (l) notwithstanding Section 63G-2-206, share records obtained under Subsection (4)(f) with private sector vendors under contract with the state to assist state agencies in collecting debts owed to the state agencies without changing the classification of any private, controlled, or protected record into a public record;
 - (m) enter into written agreements with other governmental agencies to obtain and share information for the purpose of collecting state accounts receivable; and
 - (n) collect accounts receivable for a political subdivision of the state if the political subdivision enters into an agreement or contract with the office under Title 11, Chapter 13, Interlocal Cooperation Act, for the office to collect the political subdivision's accounts receivable.
- (5) The office shall ensure that:
- (a) a record obtained by the office or a private sector vendor under Subsection (4)(l):
 - (i) is used only for the limited purpose of collecting accounts receivable; and
 - (ii) is subject to federal, state, and local agency records restrictions; and
 - (b) any individual employed by, or formerly employed by, the office or a private sector vendor as referred to in Subsection (4)(l) is subject to:
 - (i) the same duty of confidentiality with respect to the record imposed by law on officers and employees of the state agency from which the record was obtained; and
 - (ii) any civil or criminal penalties imposed by law for violations of lawful access to a private, controlled, or protected record.
- (6)
- (a) The office shall collect a civil accounts receivable or a civil judgment of restitution ordered by a court as a result of prosecution for a criminal offense that have been transferred to the office under Subsection 77-18-114(1) or (2).
 - (b) The office may not assess:
 - (i) the interest charge established by the office under Subsection (4) on an account receivable subject to the postjudgment interest rate established by Section 15-1-4; and
 - (ii) an interest charge on a criminal accounts receivable that is transferred to the office under Subsection 77-32b-103(2)(a)(ii).
- (7) The office shall require a state agency to:
- (a) transfer collection responsibilities to the office or the office's designee according to time limits established by the office;
 - (b) make annual progress towards implementing collection techniques and improved accounts receivable collections;
 - (c) use the state's accounts receivable system or develop systems that are adequate to properly account for and report the state's receivables;
 - (d) develop and implement internal policies and procedures that comply with the collections policies and guidelines established by the office;
 - (e) provide internal accounts receivable training to staff involved in the management and collection of receivables as a supplement to statewide training;
 - (f) bill for and make initial collection efforts of the state agency's receivables up to the time the accounts must be transferred; and
 - (g) submit quarterly receivable reports to the office that identify the age, collection status, and funding source of each receivable.
- (8) All interest, fees, and other amounts authorized to be collected by the office under Subsection (4)(g):
- (a) are penalties that may be charged by the office;

- (b) do not require an order from a court for the office to assess or collect;
- (c) are not compensation for actual pecuniary loss;
- (d) for a civil accounts receivable:
 - (i) begin to accrue on the day on which the civil accounts receivable is entered on the civil judgment docket under Subsection 77-18-114(1) or (2); and
 - (ii) may be collected as part of the civil accounts receivable;
- (e) for a civil judgment of restitution:
 - (i) begin to accrue on the day on which the civil judgment of restitution is entered on the civil judgment docket under Subsection 77-18-114(1); and
 - (ii) may be collected as part of the civil judgment of restitution;
- (f) for all other accounts receivable:
 - (i) begin to accrue on the day on which the accounts receivable is transferred to the office, even if there is no court order on the day on which the accounts receivable is transferred; and
 - (ii) may be collected as part of the accounts receivable; and
- (g) may be waived by:
 - (i) the office; or
 - (ii) if the interest, fee, or other amount is charged in error, the court.

Amended by Chapter 398, 2024 General Session

63A-3-502.5 Debtor's online access to debt amount.

- (1) As used in this section, "debt" means:
 - (a) an accounts receivable; or
 - (b) a criminal accounts receivable.
- (2) On or before December 31, 2022, the office shall provide a debtor who has a debt transferred to the office online access to the debtor's account that identifies:
 - (a) the total balance the debtor owes for a debt;
 - (b)
 - (i) each person to whom the debtor owes a debt; or
 - (ii) if the person's name is redacted by a court or a state agency with authority to redact, another identifier for the debt in place of the person's name;
 - (c) for each person the debtor owes:
 - (i) the debtor's original balance for a debt; and
 - (ii) the debtor's current balance for a debt;
 - (d) the current interest rate for a debt; and
 - (e) the history of:
 - (i) any additional charge added to a debt including:
 - (A) the reason for the charge;
 - (B) the total amount of the charge; and
 - (C) the date the charge was added; and
 - (ii) any payment made by the debtor including:
 - (A) the debt to which a payment was applied; and
 - (B) whether the payment was applied to an administrative cost, accrued interest, the principal, or other fee.

Enacted by Chapter 323, 2022 General Session

63A-3-503 Legal services.

The Office of the Attorney General shall:

- (1) provide to the office all legal services and advice related to the collection of accounts receivable:
 - (a) owed to the state; or
 - (b) for which the office has collection responsibilities; and
- (2) establish policies governing:
 - (a) legal matters involving accounts receivable; and
 - (b) litigation of past-due accounts receivable.

Amended by Chapter 74, 2013 General Session

63A-3-504 Rulemaking authority -- Collection techniques.

In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office shall make rules:

- (1) providing details, as necessary, for the distribution of debts collected in accordance with the priorities under Subsection 63A-3-505(3);
- (2) to govern collection techniques, which may include the use of:
 - (a) credit reporting bureaus;
 - (b) collection agencies;
 - (c) garnishments;
 - (d) liens;
 - (e) judgments; and
 - (f) administrative offsets; and
- (3) establishing that any portion of a payment for a civil judgment of restitution be credited to principal first and, if the principal amount owed for the civil judgment of restitution has been satisfied, the remainder of the payment be credited to interest that has accrued on the principal.

Amended by Chapter 260, 2021 General Session

63A-3-505 State Debt Collection Fund.

- (1) There is created an expendable special revenue fund entitled the "State Debt Collection Fund."
- (2) The fund consists of:
 - (a) all amounts appropriated to the fund under this chapter;
 - (b) fees and interest described in Subsection 63A-3-502(4)(g); and
 - (c) except as otherwise provided by law, all postjudgment interest collected by the office or the state, except postjudgment interest on a civil judgment of restitution.
- (3) Money in this fund shall be overseen by the office and may be used to pay for:
 - (a) the costs of the office in the performance of the office's duties;
 - (b) a civil judgment of restitution for which debt is owed;
 - (c) interest accrued that is associated with the debt;
 - (d) principal on the debt to the state agencies or other entities that placed the receivable for collection;
 - (e) other legal obligations including those ordered by a court; and
 - (f) deputy court clerks who work exclusively on debt collection activities.
- (4)
 - (a) The fund may collect interest.
 - (b) All interest earned from the fund shall be deposited into the General Fund.

- (5) The office shall ensure that money remaining in the fund at the end of the fiscal year that is not committed under the priorities established under Subsection (3) is deposited into the General Fund.

Amended by Chapter 398, 2024 General Session

63A-3-506 Allocation of funds.

- (1) Except as provided in Subsection (2), the money collected by the office less the office's fees shall be allocated on a prorated basis to the various revenue types that generated the accounts receivable.
- (2) Notwithstanding the requirements of Subsection (1):
 - (a) federal cost allocation requirements for specific accounts receivable related to programs that are supported by federal funds take precedence over other cost allocation methods provided in this section; and
 - (b) the office shall use interest and fees collected on past due accounts receivable as provided in Section 63A-3-505.

Renumbered and Amended by Chapter 79, 2011 General Session

Effective until 7/1/2024

63A-3-507 Administrative garnishment order.

- (1) Subject to Subsection (2), if a judgment is entered against a debtor, the office may issue an administrative garnishment order against the debtor's personal property, including wages, in the possession of a party other than the debtor in the same manner and with the same effect as if the order was a writ of garnishment issued by a court with jurisdiction.
- (2) The office may issue the administrative garnishment order if:
 - (a) the order is signed by the director or the director's designee; and
 - (b) the underlying debt is for:
 - (i) nonpayment of a civil accounts receivable or a civil judgment of restitution; or
 - (ii) nonpayment of a judgment, or abstract of judgment or award filed with a court, based on an administrative order for payment issued by an agency of the state.
- (3) An administrative garnishment order issued in accordance with this section is subject to the procedures and due process protections provided by Rule 64D, Utah Rules of Civil Procedure, except as provided by Section 70C-7-103.
- (4) An administrative garnishment order issued by the office shall:
 - (a) contain a statement that includes:
 - (i) if known:
 - (A) the nature, location, account number, and estimated value of the property; and
 - (B) the name, address, and phone number of the person holding the property;
 - (ii) whether any of the property consists of earnings;
 - (iii) the amount of the judgment and the amount due on the judgment; and
 - (iv) the name, address, and phone number of any person known to the plaintiff to claim an interest in the property;
 - (b) identify the defendant, including the defendant's name and last known address;
 - (c) notify the defendant of the defendant's right to reply to answers and request a hearing as provided by Rule 64D, Utah Rules of Civil Procedure; and
 - (d) state where the garnishee may deliver property.
- (5) The office may, in the office's discretion, include in an administrative garnishment order:

- (a) the last four digits of the defendant's Social Security number;
 - (b) the last four digits of the defendant's driver license number;
 - (c) the state in which the defendant's driver license was issued;
 - (d) one or more interrogatories inquiring:
 - (i) whether the garnishee is indebted to the defendant and, if so, the nature of the indebtedness;
 - (ii) whether the garnishee possesses or controls any property of the defendant and, if so, the nature, location, and estimated value of the property;
 - (iii) whether the garnishee knows of any property of the defendant in the possession or under the control of another and, if so:
 - (A) the nature, location, and estimated value of the property; and
 - (B) the name, address, and telephone number of the person who has possession or control of the property;
 - (iv) whether the garnishee is deducting a liquidated amount in satisfaction of a claim against the plaintiff or the defendant, whether the claim is against the plaintiff or the defendant, and the amount deducted;
 - (v) the date and manner of the garnishee's service of papers upon the defendant and any third party;
 - (vi) the dates on which any previously served writs of continuing garnishment were served; and
 - (vii) any other relevant information, including the defendant's position, rate of pay, method of compensation, pay period, and computation of the amount of the defendant's disposable earnings.
- (6)
- (a) A garnishee who acts in accordance with this section and the administrative garnishment issued by the office is released from liability unless an answer to an interrogatory is successfully controverted.
 - (b) Except as provided in Subsection (6)(c), if the garnishee fails to comply with an administrative garnishment issued by the office without a court or final administrative order directing otherwise, the garnishee is liable to the office for an amount determined by the court.
 - (c) The amount for which a garnishee is liable under Subsection (6)(b) includes:
 - (i)
 - (A) the value of the judgment; or
 - (B) the value of the property, if the garnishee shows that the value of the property is less than the value of the judgment;
 - (ii) reasonable costs; and
 - (iii) attorney fees incurred by the parties as a result of the garnishee's failure.
 - (d) If the garnishee shows that the steps taken to secure the property were reasonable, the court may excuse the garnishee's liability in whole or in part.
- (7)
- (a) If the office has reason to believe that a garnishee has failed to comply with the requirements of this section in the garnishee's response to a garnishment order issued under this section, the office may submit a motion to the court requesting the court to issue an order against the garnishee requiring the garnishee to appear and show cause why the garnishee should not be held liable under this section.
 - (b) The office shall attach to a motion under Subsection (7)(a) a statement that the office has in good faith conferred or attempted to confer with the garnishee in an effort to settle the issue without court action.

- (8) A person is not liable as a garnishee for drawing, accepting, making, or endorsing a negotiable instrument if the instrument is not in the possession or control of the garnishee at the time of service of the administrative garnishment order.
- (9)
- (a) A person indebted to the defendant may pay to the office the amount of the debt or an amount to satisfy the administrative garnishment.
 - (b) The office's receipt of an amount described in Subsection (9)(a) discharges the debtor for the amount paid.
- (10) A garnishee may deduct from the property any liquidated claim against the defendant.
- (11)
- (a) If a debt to the garnishee is secured by property, the office:
 - (i) is not required to apply the property to the debt when the office issues the administrative garnishment order; and
 - (ii) may obtain a court order authorizing the office to buy the debt and requiring the garnishee to deliver the property.
 - (b) Notwithstanding Subsection (11)(a)(i):
 - (i) the administrative garnishment order remains in effect; and
 - (ii) the office may apply the property to the debt.
 - (c) The office or a third party may perform an obligation of the defendant and require the garnishee to deliver the property upon completion of performance or, if performance is refused, upon tender of performance if:
 - (i) the obligation is secured by property; and
 - (ii)
 - (A) the obligation does not require the personal performance of the defendant; and
 - (B) a third party may perform the obligation.
- (12)
- (a) The office may issue a continuing garnishment order against a nonexempt periodic payment.
 - (b) This section is subject to the Utah Exemptions Act.
 - (c) A continuing garnishment order issued in accordance with this section applies to payments to, or for the benefit of, the defendant from the date of service upon the garnishee until the earliest of the following:
 - (i) the last periodic payment;
 - (ii) the judgment upon which the administrative garnishment order is issued is stayed, vacated, or satisfied in full; or
 - (iii) the office releases the order.
 - (d) No later than seven days after the last day of each payment period, the garnishee shall with respect to that period:
 - (i) answer each interrogatory;
 - (ii) serve an answer to each interrogatory on the office, the defendant, and any other person who has a recorded interest in the property; and
 - (iii) deliver the property to the office.
 - (e) If the office issues a continuing garnishment order during the term of a writ of continuing garnishment issued by the district court, the order issued by the office:
 - (i) is tolled when a writ of garnishment or other income withholding is already in effect and is withholding greater than or equal to the maximum portion of disposable earnings described in Subsection (13);
 - (ii) is collected in the amount of the difference between the maximum portion of disposable earnings described in Subsection (13) and the amount being garnished by an existing writ of

continuing garnishment if the maximum portion of disposable earnings exceed the existing writ of garnishment or other income withholding; and

(iii) shall take priority upon the termination of the current term of existing writs.

(13) The maximum portion of disposable earnings of an individual subject to seizure in accordance with this section is the lesser of:

(a) 25% of the defendant's disposable earnings for any other judgment; or

(b) the amount by which the defendant's disposable earnings for a pay period exceeds the number of weeks in that pay period multiplied by 30 times the federal minimum wage as provided in 29 U.S.C. Sec. 201 et seq., Fair Labor Standards Act of 1938.

(14)

(a) In accordance with the requirements of this Subsection (14), the office may, at its discretion, determine a dollar amount that a garnishee is to withhold from earnings and deliver to the office in a continuing administrative garnishment order issued under this section.

(b) The office may determine the dollar amount that a garnishee is to withhold from earnings under Subsection (14)(a) if the dollar amount determined by the office:

(i) does not exceed the maximum amount allowed under Subsection (13); and

(ii) is based on:

(A) earnings information received by the office directly from the Utah Department of Workforce Services; or

(B) previous garnishments issued to the garnishee by the office where payments were received at a consistent dollar amount.

(c) The earnings information or previous garnishments relied on by the office under Subsection (14)(b)(ii) to calculate a dollar amount under this Subsection (14) shall be:

(i) for one debtor;

(ii) from the same employer;

(iii) for two or more consecutive quarters; and

(iv) received within the last six months.

(15)

(a) A garnishee who provides the calculation for withholdings on a defendant's wages in the garnishee's initial response to an interrogatory in an administrative garnishment order under this section is not required to provide the calculation for withholdings after the garnishee's initial response if:

(i) the garnishee's accounting system automates the amount of defendant's wages to be paid under the garnishment; and

(ii) the defendant's wages do not vary by more than five percent from the amount disclosed in the garnishee's initial response.

(b) Notwithstanding Subsection (15)(a), upon request by the office or the defendant, a garnishee shall provide, for the last pay period or other pay period specified by the office or defendant, a calculation of the defendant's wages and withholdings and the amount garnished.

(16)

(a) A garnishee under an administrative garnishment order under this section is entitled to receive a garnishee fee, as provided in this Subsection (16), in the amount of:

(i) \$10 per garnishment order, for a noncontinuing garnishment order; and

(ii) \$25, as a one-time fee, for a continuing garnishment order.

(b) A garnishee may deduct the amount of the garnishee fee from the amount to be remitted to the office under the administrative garnishment order, if the amount to be remitted exceeds the amount of the fee.

- (c) If the amount to be remitted to the office under an administrative garnishment order does not exceed the amount of the garnishee fee:
 - (i) the garnishee shall notify the office that the amount to be remitted does not exceed the amount of the garnishee fee; and
 - (ii)
 - (A) the garnishee under a noncontinuing garnishment order shall return the administrative garnishment order to the office, and the office shall pay the garnishee the garnishee fee; or
 - (B) the garnishee under a continuing garnishment order shall delay remitting to the office until the amount to be remitted exceeds the garnishee fee.
- (d) If, upon receiving the administrative garnishment order, the garnishee does not possess or control any property, including money or wages, in which the defendant has an interest:
 - (i) the garnishee under a continuing or noncontinuing garnishment order shall, except as provided in Subsection (16)(d)(ii), return the administrative garnishment order to the office, and the office shall pay the garnishee the applicable garnishee fee; or
 - (ii) if the garnishee under a continuing garnishment order believes that the garnishee will, within 90 days after issuance of the continuing garnishment order, come into possession or control of property in which the defendant owns an interest, the garnishee may retain the garnishment order and deduct the garnishee fee for a continuing garnishment once the amount to be remitted exceeds the garnishee fee.
- (17) Section 78A-2-216 does not apply to an administrative garnishment order issued under this section.
- (18) An administrative garnishment instituted in accordance with this section shall continue to operate and require that a person withhold the nonexempt portion of earnings at each succeeding earning disbursement interval until the total amount due in the garnishment is withheld or the garnishment is released in writing by the court or office.
- (19) If the office issues an administrative garnishment order under this section to collect an amount owed on a civil accounts receivable or a civil judgment of restitution, the administrative garnishment order shall be construed as a continuation of the criminal action for which the civil accounts receivable or civil judgment of restitution arises if the amount owed is from a fine, fee, or restitution for the criminal action.

Amended by Chapter 398, 2024 General Session

Effective 7/1/2024

63A-3-507 Administrative garnishment order.

- (1) Subject to Subsection (2), if a judgment is entered against a debtor, the office may issue an administrative garnishment order against the debtor's personal property, including wages, in the possession of a party other than the debtor in the same manner and with the same effect as if the order was a writ of garnishment issued by a court with jurisdiction.
- (2) The office may issue the administrative garnishment order if:
 - (a) the order is signed by the director or the director's designee; and
 - (b) the underlying debt is for:
 - (i) nonpayment of a civil accounts receivable or a civil judgment of restitution; or
 - (ii) nonpayment of a judgment, or abstract of judgment or award filed with a court, based on an administrative order for payment issued by an agency of the state.

- (3) An administrative garnishment order issued in accordance with this section is subject to the procedures and due process protections provided by Rule 64D, Utah Rules of Civil Procedure, except as provided by Section 70C-7-103.
- (4) An administrative garnishment order issued by the office shall:
 - (a) contain a statement that includes:
 - (i) if known:
 - (A) the nature, location, account number, and estimated value of the property; and
 - (B) the name, address, and phone number of the person holding the property;
 - (ii) whether any of the property consists of earnings;
 - (iii) the amount of the judgment and the amount due on the judgment; and
 - (iv) the name, address, and phone number of any person known to the plaintiff to claim an interest in the property;
 - (b) identify the defendant, including the defendant's name and last known address;
 - (c) notify the defendant of the defendant's right to reply to answers and request a hearing as provided by Rule 64D, Utah Rules of Civil Procedure; and
 - (d) state where the garnishee may deliver property.
- (5) The office may, in the office's discretion, include in an administrative garnishment order:
 - (a) the last four digits of the defendant's Social Security number;
 - (b) the last four digits of the defendant's driver license number;
 - (c) the state in which the defendant's driver license was issued;
 - (d) one or more interrogatories inquiring:
 - (i) whether the garnishee is indebted to the defendant and, if so, the nature of the indebtedness;
 - (ii) whether the garnishee possesses or controls any property of the defendant and, if so, the nature, location, and estimated value of the property;
 - (iii) whether the garnishee knows of any property of the defendant in the possession or under the control of another and, if so:
 - (A) the nature, location, and estimated value of the property; and
 - (B) the name, address, and telephone number of the person who has possession or control of the property;
 - (iv) whether the garnishee is deducting a liquidated amount in satisfaction of a claim against the plaintiff or the defendant, whether the claim is against the plaintiff or the defendant, and the amount deducted;
 - (v) the date and manner of the garnishee's service of papers upon the defendant and any third party;
 - (vi) the dates on which any previously served writs of continuing garnishment were served; and
 - (vii) any other relevant information, including the defendant's position, rate of pay, method of compensation, pay period, and computation of the amount of the defendant's disposable earnings.
- (6)
 - (a) A garnishee who acts in accordance with this section and the administrative garnishment issued by the office is released from liability unless an answer to an interrogatory is successfully controverted.
 - (b) Except as provided in Subsection (6)(c), if the garnishee fails to comply with an administrative garnishment issued by the office without a court or final administrative order directing otherwise, the garnishee is liable to the office for an amount determined by the court.
 - (c) The amount for which a garnishee is liable under Subsection (6)(b) includes:
 - (i)

- (A) the value of the judgment; or
 - (B) the value of the property, if the garnishee shows that the value of the property is less than the value of the judgment;
 - (ii) reasonable costs; and
 - (iii) attorney fees incurred by the parties as a result of the garnishee's failure.
 - (d) If the garnishee shows that the steps taken to secure the property were reasonable, the court may excuse the garnishee's liability in whole or in part.
- (7)
- (a) If the office has reason to believe that a garnishee has failed to comply with the requirements of this section in the garnishee's response to a garnishment order issued under this section, the office may submit a motion to the court requesting the court to issue an order against the garnishee requiring the garnishee to appear and show cause why the garnishee should not be held liable under this section.
 - (b) The office shall attach to a motion under Subsection (7)(a) a statement that the office has in good faith conferred or attempted to confer with the garnishee in an effort to settle the issue without court action.
- (8) A person is not liable as a garnishee for drawing, accepting, making, or endorsing a negotiable instrument if the instrument is not in the possession or control of the garnishee at the time of service of the administrative garnishment order.
- (9)
- (a) A person indebted to the defendant may pay to the office the amount of the debt or an amount to satisfy the administrative garnishment.
 - (b) The office's receipt of an amount described in Subsection (9)(a) discharges the debtor for the amount paid.
- (10) A garnishee may deduct from the property any liquidated claim against the defendant.
- (11)
- (a) If a debt to the garnishee is secured by property, the office:
 - (i) is not required to apply the property to the debt when the office issues the administrative garnishment order; and
 - (ii) may obtain a court order authorizing the office to buy the debt and requiring the garnishee to deliver the property.
 - (b) Notwithstanding Subsection (11)(a)(i):
 - (i) the administrative garnishment order remains in effect; and
 - (ii) the office may apply the property to the debt.
 - (c) The office or a third party may perform an obligation of the defendant and require the garnishee to deliver the property upon completion of performance or, if performance is refused, upon tender of performance if:
 - (i) the obligation is secured by property; and
 - (ii)
 - (A) the obligation does not require the personal performance of the defendant; and
 - (B) a third party may perform the obligation.
- (12)
- (a) The office may issue a continuing garnishment order against a nonexempt periodic payment.
 - (b) This section is subject to the Utah Exemptions Act.
 - (c) A continuing garnishment order issued in accordance with this section applies to payments to, or for the benefit of, the defendant from the date of service upon the garnishee until the earliest of the following:
 - (i) the last periodic payment;

- (ii) the judgment upon which the administrative garnishment order is issued is stayed, vacated, or satisfied in full; or
 - (iii) the office releases the order.
- (d) No later than seven days after the last day of each payment period, the garnishee shall with respect to that period:
 - (i) answer each interrogatory;
 - (ii) serve an answer to each interrogatory on the office, the defendant, and any other person who has a recorded interest in the property; and
 - (iii) deliver the property to the office.
- (e) If the office issues a continuing garnishment order during the term of a writ of continuing garnishment issued by a court, the order issued by the office:
 - (i) is tolled when a writ of garnishment or other income withholding is already in effect and is withholding greater than or equal to the maximum portion of disposable earnings described in Subsection (13);
 - (ii) is collected in the amount of the difference between the maximum portion of disposable earnings described in Subsection (13) and the amount being garnished by an existing writ of continuing garnishment if the maximum portion of disposable earnings exceed the existing writ of garnishment or other income withholding; and
 - (iii) shall take priority upon the termination of the current term of existing writs.
- (13) The maximum portion of disposable earnings of an individual subject to seizure in accordance with this section is the lesser of:
 - (a) 25% of the defendant's disposable earnings for any other judgment; or
 - (b) the amount by which the defendant's disposable earnings for a pay period exceeds the number of weeks in that pay period multiplied by 30 times the federal minimum wage as provided in 29 U.S.C. Sec. 201 et seq., Fair Labor Standards Act of 1938.
- (14)
 - (a) In accordance with the requirements of this Subsection (14), the office may, at its discretion, determine a dollar amount that a garnishee is to withhold from earnings and deliver to the office in a continuing administrative garnishment order issued under this section.
 - (b) The office may determine the dollar amount that a garnishee is to withhold from earnings under Subsection (14)(a) if the dollar amount determined by the office:
 - (i) does not exceed the maximum amount allowed under Subsection (13); and
 - (ii) is based on:
 - (A) earnings information received by the office directly from the Department of Workforce Services; or
 - (B) previous garnishments issued to the garnishee by the office where payments were received at a consistent dollar amount.
 - (c) The earnings information or previous garnishments relied on by the office under Subsection (14)(b)(ii) to calculate a dollar amount under this Subsection (14) shall be:
 - (i) for one debtor;
 - (ii) from the same employer;
 - (iii) for two or more consecutive quarters; and
 - (iv) received within the last six months.
- (15)
 - (a) A garnishee who provides the calculation for withholdings on a defendant's wages in the garnishee's initial response to an interrogatory in an administrative garnishment order under this section is not required to provide the calculation for withholdings after the garnishee's initial response if:

- (i) the garnishee's accounting system automates the amount of defendant's wages to be paid under the garnishment; and
 - (ii) the defendant's wages do not vary by more than five percent from the amount disclosed in the garnishee's initial response.
 - (b) Notwithstanding Subsection (15)(a), upon request by the office or the defendant, a garnishee shall provide, for the last pay period or other pay period specified by the office or defendant, a calculation of the defendant's wages and withholdings and the amount garnished.
- (16)
- (a) A garnishee under an administrative garnishment order under this section is entitled to receive a garnishee fee, as provided in this Subsection (16), in the amount of:
 - (i) \$10 per garnishment order, for a noncontinuing garnishment order; and
 - (ii) \$25, as a one-time fee, for a continuing garnishment order.
 - (b) A garnishee may deduct the amount of the garnishee fee from the amount to be remitted to the office under the administrative garnishment order, if the amount to be remitted exceeds the amount of the fee.
 - (c) If the amount to be remitted to the office under an administrative garnishment order does not exceed the amount of the garnishee fee:
 - (i) the garnishee shall notify the office that the amount to be remitted does not exceed the amount of the garnishee fee; and
 - (ii)
 - (A) the garnishee under a noncontinuing garnishment order shall return the administrative garnishment order to the office, and the office shall pay the garnishee the garnishee fee; or
 - (B) the garnishee under a continuing garnishment order shall delay remitting to the office until the amount to be remitted exceeds the garnishee fee.
 - (d) If, upon receiving the administrative garnishment order, the garnishee does not possess or control any property, including money or wages, in which the defendant has an interest:
 - (i) the garnishee under a continuing or noncontinuing garnishment order shall, except as provided in Subsection (16)(d)(ii), return the administrative garnishment order to the office, and the office shall pay the garnishee the applicable garnishee fee; or
 - (ii) if the garnishee under a continuing garnishment order believes that the garnishee will, within 90 days after issuance of the continuing garnishment order, come into possession or control of property in which the defendant owns an interest, the garnishee may retain the garnishment order and deduct the garnishee fee for a continuing garnishment once the amount to be remitted exceeds the garnishee fee.
- (17) Section 78A-2-216 does not apply to an administrative garnishment order issued under this section.
- (18) An administrative garnishment instituted in accordance with this section shall continue to operate and require that a person withhold the nonexempt portion of earnings at each succeeding earning disbursement interval until the total amount due in the garnishment is withheld or the garnishment is released in writing by the court or office.
- (19) If the office issues an administrative garnishment order under this section to collect an amount owed on a civil accounts receivable or a civil judgment of restitution, the administrative garnishment order shall be construed as a continuation of the criminal action for which the civil accounts receivable or civil judgment of restitution arises if the amount owed is from a fine, fee, or restitution for the criminal action.

Effective 7/1/2024

63A-3-508 Written request to receive a credit for a restitution payment -- Eligibility requirements.

- (1) As used in this section:
 - (a) "Debt" means any amount that:
 - (i) an individual owes as part of a criminal judgment; and
 - (ii) is collected and managed by the office.
 - (b) "Eligible individual" means an individual who meets the requirements of Subsection (2).
 - (c) "Qualifying debt" means a debt that is a fine, a fee, a surcharge, or any other money, that is deposited into the General Fund by the state treasurer.
 - (d) "Voluntary payment" means a payment on a debt that is made before, or in the absence of, a legal proceeding or administrative action to collect or enforce the collection of the debt.
- (2) An individual is eligible for a credit described in Subsection (3) if:
 - (a) the individual submits a written request, on or after May 1, 2024, and before May 1, 2026, to the office requesting the credit;
 - (b) the individual owes a debt of \$3,000 or greater at the time of the written request; and
 - (c) the individual was sentenced before July 1, 2021, for a criminal judgment for which the individual owes a debt.
- (3)
 - (a) If an eligible individual makes a voluntary payment toward any restitution owed by the individual, the office shall issue a credit against any qualifying debt owed by the individual in the amount of 75% of the amount applied to restitution.
 - (b) The office may issue the credit described in Subsection (3) to any voluntary payment made toward restitution before the written request was submitted as described in Subsection (2).
- (4) The office shall provide:
 - (a) reasonable notice of eligibility before May 1, 2026, to any individual that may be eligible for the credit as described in Subsection (2)(b) and (c); and
 - (b) if an individual submits a written request as described in Subsection (2)(a), a written confirmation as to whether the individual is an eligible individual and will receive a credit as described in Subsection (3).
- (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office may make rules regarding the administration of this section.
- (6) By no later than November 30, 2025, the office shall report to the Judiciary Interim Committee on the outcomes of this section and whether the eligibility period described in Subsection (2) should be extended beyond May 1, 2026.
- (7) Nothing in this section authorizes the office to reimburse or refund an individual for any payment on a debt.

Enacted by Chapter 389, 2024 General Session