

Chapter 3
Division of Finance

Part 1
General Provisions

63A-3-101 Creation.

There is created within the department the Division of Finance, to be administered by a director.

Renumbered and Amended by Chapter 212, 1993 General Session

63A-3-102 Director of division -- Appointment.

- (1) The executive director shall appoint the director of the Division of Finance with the approval of the governor.
- (2) The director of the Division of Finance shall serve at the pleasure of the executive director.
- (3) The director of the Division of Finance is the state's chief fiscal officer and the state's accounting officer.

Enacted by Chapter 212, 1993 General Session

63A-3-103 Duties of director of division -- Application to institutions of higher education.

- (1) The director of the Division of Finance shall:
 - (a) define fiscal procedures relating to approval and allocation of funds;
 - (b) provide for the accounting control of funds;
 - (c) promulgate rules that:
 - (i) establish procedures for maintaining detailed records of all types of leases;
 - (ii) account for all types of leases in accordance with generally accepted accounting principles;
 - (iii) require the performance of a lease with an option to purchase study by state agencies prior to any lease with an option to purchase acquisition of capital equipment; and
 - (iv) require that the completed lease with an option to purchase study be approved by the director of the Division of Finance;
 - (d) if the department operates the Division of Finance as an internal service fund agency in accordance with Section 63A-1-109.5, submit to the Rate Committee established in Section 63A-1-114:
 - (i) the proposed rate and fee schedule as required by Section 63A-1-114; and
 - (ii) other information or analysis requested by the Rate Committee;
 - (e) oversee the Office of State Debt Collection;
 - (f) publish the state's current constitutional debt limit on the public finance website established by the state auditor in accordance with Section 67-3-12; and
 - (g) prescribe other fiscal functions required by law or under the constitutional authority of the governor to transact all executive business for the state.
- (2)
 - (a) Institutions of higher education are subject to the provisions of Title 63A, Chapter 3, Part 1, General Provisions, and Title 63A, Chapter 3, Part 2, Accounting System, only to the extent expressly authorized or required by the Utah Board of Higher Education under Title 53B, State System of Higher Education.

- (b) Institutions of higher education shall submit financial data for the past fiscal year conforming to generally accepted accounting principles to the director of the Division of Finance.
- (3) The Division of Finance shall prepare financial statements and other reports in accordance with legal requirements and generally accepted accounting principles for the state auditor's examination and certification:
 - (a) not later than 60 days after a request from the state auditor; and
 - (b) at the end of each fiscal year.

Amended by Chapter 84, 2021 General Session

63A-3-104 Appropriation for contingency purposes -- Procedure for allotment -- Legislative intent.

- (1)
 - (a) The Legislature shall determine the amount to be appropriated for contingency purposes, as well as the limits on the amount of any one allotment or total allotments to any one agency.
 - (b) In advance of making any such allotment, the governor shall notify the Legislature through the Office of the Legislative Fiscal Analyst, of his or her intent to do so, of the amount to be allotted, and the justification for the allotment.
- (2) It is the intent of the Legislature that such transfers be made only for unforeseeable emergencies, and allotments shall not be made to correct poor budgetary practices or for purposes having no existing appropriation or authorization.

Amended by Chapter 298, 2016 General Session

63A-3-105 Securities deposited with state treasurer -- Release.

- (1) The director of the Division of Finance shall collect and deposit with the state treasurer all stocks, evidences of indebtedness, bonds, and securities of every kind and nature belonging to the state or any of its departments.
- (2) The state treasurer shall keep a complete record of the items deposited under Subsection (1) and credit each to the proper fund or account. The treasurer shall release the items only upon the order of the director.

Renumbered and Amended by Chapter 212, 1993 General Session

63A-3-106 Per diem rates for board members.

- (1) As used in this section and Section 63A-3-107:
 - (a) "Board" means a board, commission, council, committee, task force, or similar body established to perform a governmental function.
 - (b) "Board member" means a person appointed or designated by statute to serve on a board.
 - (c) "Executive branch" means an agency within the executive branch of state government.
 - (d)
 - (i) "Governmental entity" has the same meaning, except as provided in Subsection (1)(d)(ii), as provided under Section 63G-2-103.
 - (ii) "Governmental entity" does not include an association as defined in Section 53G-7-1101.
 - (e) "Higher education" means a state institution of higher education, as defined under Section 53B-1-102.
 - (f) "Officer" means a person who is elected or appointed to an office or position within a governmental entity.

- (g) "Official meeting" means a meeting of a board that is called in accordance with statute.
- (2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and subject to approval by the executive director, the director of the Division of Finance shall make rules establishing per diem rates to defray subsistence costs for a board member's attendance at an official meeting.
- (3) Unless otherwise provided by statute, a per diem rate established under Subsection (2) is applicable to a board member who serves:
 - (a) within the executive branch, except as provided under Subsection (3)(b);
 - (b) within higher education, unless higher education pays the costs of the per diem;
 - (c) on a board that is:
 - (i) not included under Subsection (3)(a) or (b); and
 - (ii) created by a statute that adopts the per diem rates by reference to:
 - (A) this section; and
 - (B) the rule authorized by this section; and
 - (d) within a government entity that is not included under Subsection (3)(a), if the government entity adopts the per diem rates by reference to:
 - (i) this section; or
 - (ii) the rule establishing the per diem rates.
- (4)
 - (a) Unless otherwise provided by statute, a board member who is not a legislator may receive per diem under this section and travel expenses under Section 63A-3-107 if the per diem and travel expenses are incurred by the board member for attendance at an official meeting.
 - (b) Notwithstanding Subsection (4)(a), a board member may not receive per diem or travel expenses under this Subsection (4) if the board member is being paid by a governmental entity while performing the board member's service on the board.
- (5) A board member may decline to receive per diem for the board member's service.
- (6) Compensation and expenses of a board member who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

Amended by Chapter 415, 2018 General Session

63A-3-107 Travel expenses of board members and state officers and employees.

- (1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and subject to approval by the executive director, the director of the Division of Finance shall make rules governing in-state and out-of-state travel expenses.
- (2) Unless otherwise provided by statute, a travel expense rule established under Subsection (1) is applicable to:
 - (a) a board member, an officer, or employee of the executive branch, except as provided under Subsection (2)(b);
 - (b) a board member, an officer, or employee of higher education, unless higher education pays the costs of the travel expenses;
 - (c) a board member who:
 - (i) is not included under Subsection (2)(a) or (b); and
 - (ii) serves on a board created by a statute that adopts the travel expense rates by reference to:
 - (A) this section; and
 - (B) the rule authorized by this section; and
 - (d) a government entity that is not included under Subsection (2)(a), if the government entity adopts the travel expense provisions by reference to:

- (i) this section; or
 - (ii) the rule establishing the travel expense provisions.
- (3) The Division of Finance shall make the travel expense rules on the basis of:
- (a) a mileage allowance; and
 - (b) reimbursement for other travel expenses incurred.
- (4) The travel expense rules may specify an exception to a travel expense rule or allow the director of the Division of Finance to make an exception to a travel expense rule, when justified by the executive director of the executive branch agency or department, to meet special circumstances encountered in official attendance at a conference, convention, meeting, or other official business, as determined by the director of the Division of Finance.
- (5) An officer or employee of the executive branch may not incur obligations for travel outside the state without the advance approval of the executive director or a designee of the executive director of an executive branch department or agency.
- (6) A board member may decline to receive travel expenses for the board member's service.
- (7) Compensation and expenses of a board member who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

Amended by Chapter 387, 2014 General Session

63A-3-109 Contribution dependent accounts -- Annual report.

- (1) As used in this section:
- (a)
 - (i) "Contribution" means a voluntary donation of money or other valuable property to a state fund or account.
 - (ii) "Contribution" does not include:
 - (A) a fee or tax levied by a state entity; or
 - (B) a voluntary donation made under Title 41, Chapter 1a, Motor Vehicle Act or Title 59, Chapter 10, Part 13, Individual Income Tax Contribution Act.
 - (b)
 - (i) "Contribution dependent account" means a state fund or account that:
 - (A) receives at least 50% of the fund's or account's revenue from contributions; and
 - (B) is not intended to be used to directly provide services exclusively to a person who makes a contribution to the fund or account.
 - (ii) "Contribution dependent account" does not include a fiduciary fund as defined in Section 51-5-4.
- (2) The Division of Finance shall annually prepare a report that:
- (a) lists each contribution dependent account that did not receive at least \$30,000 in contributions during at least one of the three fiscal years before the day on which the report is compiled; and
 - (b) recommends that the Legislature close each contribution dependent account listed in the report.
- (3) The Division of Finance shall present the report described in Subsection (2) to the Executive Appropriations Committee by November 30 of each year.

Amended by Chapter 451, 2022 General Session

63A-3-110 Personal use expenditures for state officers and employees.

- (1) As used in this section:

- (a) "Employee" means a person who is not an elected or appointed officer and who is employed on a full- or part-time basis by a governmental entity.
 - (b) "Governmental entity" means:
 - (i) an executive branch agency of the state, the offices of the governor, lieutenant governor, state auditor, attorney general, and state treasurer, the State Board of Education, and the Utah Board of Higher Education;
 - (ii) the Office of the Legislative Auditor General, the Office of the Legislative Fiscal Analyst, the Office of Legislative Research and General Counsel, the Legislature, and legislative committees;
 - (iii) courts, the Judicial Council, the Administrative Office of the Courts, and similar administrative units in the judicial branch; or
 - (iv) independent state entities created under Title 63H, Independent State Entities.
 - (c) "Officer" means a person who is elected or appointed to an office or position within a governmental entity.
 - (d)
 - (i) "Personal use expenditure" means an expenditure made without the authority of law that:
 - (A) is not directly related to the performance of an activity as a state officer or employee;
 - (B) primarily furthers a personal interest of a state officer or employee or a state officer's or employee's family, friend, or associate; and
 - (C) would constitute taxable income under federal law.
 - (ii) "Personal use expenditure" does not include:
 - (A) a de minimis or incidental expenditure; or
 - (B) a state vehicle or a monthly stipend for a vehicle that an officer or employee uses to travel to and from the officer or employee's official duties, including a minimal allowance for a detour as provided by the state.
 - (e) "Public funds" means the same as that term is defined in Section 51-7-3.
- (2) A state officer or employee may not:
- (a) use public funds for a personal use expenditure; or
 - (b) incur indebtedness or liability on behalf of, or payable by, a governmental entity for a personal use expenditure.
- (3) If the Division of Finance or the responsible governmental entity determines that a state officer or employee has intentionally made a personal use expenditure in violation of Subsection (2), the governmental entity shall:
- (a) require the state officer or employee to deposit the amount of the personal use expenditure into the fund or account from which:
 - (i) the personal use expenditure was disbursed; or
 - (ii) payment for the indebtedness or liability for a personal use expenditure was disbursed;
 - (b) require the state officer or employee to remit an administrative penalty in an amount equal to 50% of the personal use expenditure to the Division of Finance; and
 - (c) deposit the money received under Subsection (3)(b) into the General Fund.
- (4)
- (a) Any state officer or employee who has been found by a governmental entity to have made a personal use expenditure in violation of Subsection (2) may appeal the finding of the governmental entity.
 - (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Division of Finance shall make rules regarding an appeal process for an appeal made under Subsection (4)(a), including the designation of an appeal authority.
- (5)

- (a) Subject to Subsection (5)(b), the Division of Finance may withhold all or a portion of the wages of a state officer or employee who has violated Subsection (2) until the requirements of Subsection (3) have been met.
- (b) If the state officer or employee has requested an appeal under Subsection (4), the Division of Finance may only withhold the wages of the officer or employee after the appeal authority described in Subsection (4)(b) has confirmed that the officer or employee violated Subsection (2).
- (6) Nothing in this chapter immunizes a state officer or employee from or precludes any criminal prosecution or civil or employment action for an unlawful personal use expenditure.
- (7) A state officer or employee who is convicted of misusing public money or public property under Section 76-8-402 may not disburse public funds or access public accounts.

Amended by Chapter 360, 2020 General Session

Amended by Chapter 365, 2020 General Session

63A-3-112 Digital user asset collection.

- (1) As used in this section:
 - (a) "Agency" means a state government entity that receives payments for services or fees and is eligible to enter into a contract for payment services with the division.
 - (b) "Agency payment" means a payment that is due directly to an agency and that the agency collects either directly or through a third-party payment processor with whom the division has a contract.
 - (c) "Digital asset" means a representation of economic, proprietary, or access rights that is stored in a computer readable format.
 - (d) "Digital security" means a digital asset which constitutes a security, as that term is defined in Section 70A-8-101.
 - (e)
 - (i) "Digital user asset" means a digital asset that is used or bought primarily for consumptive, personal, or household purposes.
 - (ii) "Digital user asset" includes an open blockchain token.
 - (iii) "Digital user asset" does not include a digital security.
 - (f) "Participating agency" means an agency that meets the division's requirements to accept payments made through a service provider with whom the division has a contract.
 - (g) "Political subdivision" means the same as that term is defined in Section 63G-7-102.
 - (h) "Political subdivision payment" means a payment that is due directly to a political subdivision and that the political subdivision collects either directly or through a third-party payment processor with whom the political subdivision has a contract.
 - (i) "Service provider" means a person with demonstrated experience exchanging digital user assets for legal tender.
- (2) The division shall contract with a service provider to provide a service to process an agency payment for a participating agency by:
 - (a) taking the payment in the form of a digital user asset; and
 - (b) converting the digital user asset into legal tender to pay the agency payment.
- (3)
 - (a) When contracting with a service provider to provide the service described in Subsection (2), the division has discretion to choose a service provider that can only provide the exchange service for a limited class or type of digital user asset.

- (b) The division may contract with more than one service provider to provide the service described in Subsection (2).
- (c) Nothing in this section shall be interpreted to require the division to provide the service described in Subsection (2) for all types of digital user assets.
- (4)
 - (a) The person paying the agency payment bears responsibility for any costs the service provider charges for the service provider's service.
 - (b) The division may collect a fee established in accordance with the procedures and requirements of Section 63J-1-504 to cover the costs to the division of providing the service described in Subsection (2).
- (5) The division shall contract to provide the service described in Subsection (2) on or before January 1, 2023.
- (6) The division shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules to:
 - (a) establish standards that a person must meet to be eligible to enter into a contract as a service provider; and
 - (b) establish requirements an agency must meet to be a participating agency.
- (7) A political subdivision may enter into an agreement with the division for the division to contract with a service provider to, on behalf of the political subdivision:
 - (a) provide a service to collect a political subdivision payment in the form of a digital user asset; and
 - (b) convert the digital user asset into legal tender to pay the political subdivision payment.
- (8) Nothing in this section shall be interpreted to impose liability upon the person paying the agency payment or a participating agency for a change in value of the digital user asset after the moment of payment to the service provider.

Enacted by Chapter 405, 2022 General Session

Part 2 Accounting System

63A-3-201 Appointment of accounting and other officers and employees by director of the Division of Finance -- Delegation of powers and duties by director -- Background checks.

- (1) With the approval of the executive director, the director of the Division of Finance shall appoint an accounting officer and other administrative officers that are necessary to efficiently and economically perform the functions of the Division of Finance.
- (2) The director of the Division of Finance may:
 - (a) organize the division and employ other assistants to discharge the functions of the division;
 - (b) delegate to assistants, officers, and employees any of the powers and duties of the office subject to his or her control and subject to any conditions he may prescribe; and
 - (c) delegate the powers and duties of the office only by written order filed with the lieutenant governor.
- (3)
 - (a) As used in this Subsection (3):
 - (i) "Public employee" means a person employed by a state agency.

- (ii) "Public funds" means money, funds, and accounts, regardless of the source from which the money, funds, and accounts are derived, that are owned, held, or administered by a state agency.
- (iii) "Public funds position" means employment with a state agency that requires:
 - (A) physical or electronic access to public funds;
 - (B) performing internal control functions or accounting;
 - (C) creating reports on public funds; or
 - (D) using, operating, or accessing state systems that account for or help account for public funds.
- (iv) "State agency" means:
 - (A) an executive branch agency; or
 - (B) a state educational institution with the exception of an institution defined in Subsection 53B-1-102(1).
- (b) The Division of Finance may require that a public employee who applies for or holds a public funds position:
 - (i) submit a fingerprint card in a form acceptable to the division;
 - (ii) consent to a criminal background check by:
 - (A) the Federal Bureau of Investigation;
 - (B) the Utah Bureau of Criminal Identification; or
 - (C) another agency of any state that performs criminal background checks; or
 - (iii) consent to a credit history report, subject to the requirements of the Fair Credit Reporting Act, 15 U.S.C. Sec. 1681 et seq.
- (c) The Bureau of Criminal Identification shall provide all the results from the state, regional, and nationwide criminal history background checks to the division.
- (d) The Division of Finance may, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules to implement this section.

Amended by Chapter 169, 2022 General Session

63A-3-202 Comprehensive state accounting system -- Approval of agency accounting systems -- Cost accounting systems required.

- (1) The director of the Division of Finance shall establish a comprehensive state accounting system.
- (2) Officers, departments, agencies, and institutions of Utah may create and maintain accounting systems only with the approval of the director.
- (3) The director may, with the approval of the executive director, require any department or institution to install and maintain a cost accounting system that will disclose the unit cost of material or service produced or performed by a department.

Renumbered and Amended by Chapter 212, 1993 General Session

63A-3-203 Accounting control over state departments and agencies -- Prescription and approval of financial forms and accounting systems.

- (1) The director of the Division of Finance shall:
 - (a) exercise accounting control over all state departments and agencies except institutions of higher education; and
 - (b) prescribe the manner and method of certifying that funds are available and adequate to meet all contracts and obligations.

- (2) The director shall audit all claims against the state for which an appropriation is made.
- (3)
 - (a) The director shall prescribe:
 - (i) all forms of requisitions, receipts, vouchers, bills, or claims to be used by all state departments and agencies; and
 - (ii) all forms to be used by the division.
 - (b) Before approving the forms in Subsection (3)(a), the director shall obtain approval from the state auditor that the forms will adequately facilitate the post-audit of public accounts.
- (4) Before implementation by any state agency, the director of the Division of Finance shall review and approve any accounting system developed by a state agency.

Amended by Chapter 169, 2022 General Session

63A-3-204 Financial control system -- Financial reports as to state funds -- Information required of executive directors of state departments.

- (1) The director of the Division of Finance shall:
 - (a) maintain a financial control system according to generally accepted accounting principles;
 - (b) record the constituent elements of the General Fund and of each special fund in proper relationship to each other; and
 - (c) keep all accounts in balance.
- (2) The director of the Division of Finance shall prepare and submit to the governor and to the Legislature, when requested, reports showing:
 - (a) the condition of the General Fund and each special fund of the state;
 - (b) the available cash resources of the General Fund and each special fund of the state;
 - (c) as to each fund:
 - (i) the estimated revenue and anticipated time of collection;
 - (ii) the current encumbrances, future obligations, and estimated date they accrue;
 - (iii) appropriations;
 - (iv) obligations;
 - (v) monthly allotments;
 - (vi) unencumbered allotments; and
 - (vii) reserves and surpluses;
 - (d) the capital assets and liability accounts of the state; and
 - (e) the valuation account of all other state property.
- (3) The executive director of each department of state government and all institutions of higher education shall submit statements containing the information and data necessary to enable the director of the Division of Finance to submit to the governor the reports required by Subsection (2).

Renumbered and Amended by Chapter 212, 1993 General Session

63A-3-205 Revolving loan funds -- Standards and procedures.

- (1) As used in this section, "revolving loan fund" means:
 - (a) the Water Resources Conservation and Development Fund, created in Section 73-10-24;
 - (b) the Water Resources Construction Fund, created in Section 73-10-8;
 - (c) the Water Resources Cities Water Loan Fund, created in Section 73-10-22;
 - (d) the Clean Fuel Conversion Funds, created in Title 19, Chapter 1, Part 4, Clean Fuels and Emission Reduction Technology Program Act;

- (e) the Water Development Security Fund and its subaccounts, created in Section 73-10c-5;
 - (f) the Agriculture Resource Development Fund, created in Section 4-18-106;
 - (g) the Utah Rural Rehabilitation Fund, created in Section 4-19-105;
 - (h) the Permanent Community Impact Fund, created in Section 35A-8-303;
 - (i) the Petroleum Storage Tank Fund, created in Section 19-6-409;
 - (j) the Uintah Basin Revitalization Fund, created in Section 35A-8-1602;
 - (k) the Navajo Revitalization Fund, created in Section 35A-8-1704; and
 - (l) the Energy Efficiency Fund, created in Section 11-45-201.
- (2) The division shall for each revolving loan fund make rules establishing standards and procedures governing:
- (a) payment schedules and due dates;
 - (b) interest rate effective dates;
 - (c) loan documentation requirements; and
 - (d) interest rate calculation requirements.

Amended by Chapter 100, 2022 General Session

Amended by Chapter 451, 2022 General Session

Part 3

Accounts Receivable Collection

63A-3-301 Definitions.

As used in this part:

- (1) "Account receivable" or "receivable" means any amount due the state or any other governmental entity within the state as a result of a judgment, citation, tax, or administrative order, or for which materials or services have been provided but for which payment has not been received by the servicing unit.
- (2) "Debtor" means a party that owes, or is alleged to owe, an account receivable.
- (3) "Division" means the Division of Finance, created in Section 63A-3-101.
- (4) "Local agency" means a nonprofit entity organized by participating political subdivisions to act on behalf of the participating political subdivisions with respect to the office's efforts to collect accounts receivable of participating political subdivisions through administrative offsets.
- (5) "Mail" means United States Postal Service first class mail to the intended recipient's last known address.
- (6) "Participating political subdivision" means a political subdivision that has entered into an agreement with a local agency authorizing the local agency to act on behalf of the political subdivision with respect to the office's efforts to collect accounts receivable of the political subdivision through administrative offsets.
- (7) "Political subdivision" means the same as that term is defined in Section 63G-7-102.

Amended by Chapter 297, 2020 General Session

63A-3-302 Unpaid accounts receivable -- Political subdivision agreement with local agency.

- (1)
 - (a) Except as provided in Subsections (1)(b) and (c), if any account receivable at any point has been unpaid for 90 days or more, any agency or other authority of the state, or any political

subdivision responsible for collection of the account may proceed under this part to collect the delinquent amount.

- (b) A governmental entity within the state that is a health care provider may not proceed under this part when the account receivable is for a medical material or service and the debtor:
 - (i) has made a payment arrangement with the health care provider; and
 - (ii) is current on payments under the payment arrangement.
 - (c) The state, a governmental entity within the state, or a local agency acting on behalf of a political subdivision within the state may proceed under this part on an account receivable that is for a property tax imposed under Title 59, Chapter 2, Property Tax Act, only if the account receivable is three or more years delinquent.
- (2)
- (a) A political subdivision may enter into an agreement with a local agency under which the local agency, for a reasonable fee that the political subdivision and local agency agree upon, prepares and submits the political subdivision's accounts receivable for collection as provided in this part.
 - (b) Notwithstanding an agreement under Subsection (2)(a), a participating political subdivision shall:
 - (i) establish an agreement with the division for submitting delinquent accounts receivable under this part; and
 - (ii) with respect to the accounts receivable that the participating political subdivision submits through a local agency for collection under this part:
 - (A) receive and respond to an administrative hearing requested under Section 63A-3-305; and
 - (B) administer an adjudicative proceeding required under Section 63A-3-306.

Amended by Chapter 261, 2022 General Session

63A-3-303 Notice to debtor -- Contents -- Joint filers.

- (1) When the state or any governmental entity executes, or intends to execute, on a lien created by Section 63A-3-307, the state or entity to which the receivable is owed shall send a notice by mail to the debtor at the debtor's last-known address.
- (2) The notice required by Subsection (1) shall contain:
 - (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 request a hearing within 21 days of the date of the notice, 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 received from the debtor;
 - (e) a statement notifying the debtor that the state may obtain an order and execute upon income tax overpayments or refunds of the debtor if:
 - (i) the debtor fails to timely respond to the notice; or
 - (ii) a hearing is held and the hearing officer decides against the debtor; and
 - (f) the address to which the debtor may send a written request for a hearing.
- (3) Notwithstanding Subsection (1), if the Office of State Debt Collection has agreed to collect a receivable, the Office of State Debt Collection may send the notice required by Subsection (1) instead of the entity to which the receivable is owed.
- (4) Unless otherwise prohibited by law, the notice required by this section shall also be sent to any individuals that are joint filers with a debtor of an affected tax filing, if the state agency or other

governmental entity attempting to levy a debtor's tax overpayment or refund is aware of the joint filer.

Amended by Chapter 84, 2019 General Session

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

If a written request for a hearing, or payment of delinquent receivable, is not received by the state or other governmental entity within 21 days from the date of the notice required by Section 63A-3-303, the debtor is in default and the state or other governmental entity may:

- (1) levy the debtor's income tax overpayment or refund up to the amount of the receivable, plus interest, penalties, and collection costs allowed by law; and
- (2) collect the balance, including as provided in Section 63A-3-307.

Amended by Chapter 84, 2019 General Session

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

- (1) If a written response is received by the state or other governmental entity within 21 days from the date of the notice required by Section 63A-3-303 and a hearing is requested in the written response, the state or other governmental entity shall:
 - (a) set a hearing date within 28 days of the receipt of the response; and
 - (b) mail written notice of the hearing to the debtor at least 14 days before the date of the hearing.
- (2) Notwithstanding Subsection (1), the state or other governmental entity is not required to set a hearing if the state or governmental entity releases its lien.

Amended by Chapter 84, 2019 General Session

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

- (1)
 - (a) A hearing requested under this part shall be held before a hearing examiner designated by the state or other governmental entity setting the hearing.
 - (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 or other governmental entity shall comply with the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act, in its adjudicative proceedings.
- (3) If a hearing examiner determines a receivable is owed, in whole or in part:
 - (a) the state or other governmental entity may levy the debtor's income tax overpayment or refund up to the amount of the receivable determined to be owed, plus interest, penalties, and collection costs allowed by law and collect the balance, including as provided in Section 63A-3-307; and
 - (b) the state or other governmental entity may charge the debtor reasonable, actual collection costs for amounts charged by the hearing examiner for the debtor's hearing.

Amended by Chapter 84, 2019 General Session

63A-3-307 Liens.

- (1) The following shall constitute a lien in the amount of the receivable plus interest, penalties, and collection costs allowed by law against any state income tax overpayment or refund due or to become due the debtor:

- (a) a judgment, citation, tax, or administrative order issued by any agency, court, or other authority of the state, or by any political subdivision; or
 - (b) an amount, that has at any point been unpaid for 90 days or more, due the state or other governmental entity for which materials or services have been provided but for which payment has not been received by the servicing unit.
- (2) The lien created by this section shall, for the purposes of Section 59-10-529 only, be considered a judgment.

Amended by Chapter 297, 2020 General Session

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

- (1) Agency and judicial review of decisions from hearings conducted under this part are subject to review in accordance with Title 63G, Chapter 4, Administrative Procedures Act.
- (2) The state or other governmental entity may retain in its possession a debtor's tax overpayment or refund while a decision from a hearing conducted under this part is being reviewed by an agency, court, or other authority of the state pursuant to Title 63G, Chapter 4, Administrative Procedures Act.

Amended by Chapter 84, 2019 General Session

63A-3-310 Rules for implementing part.

The division may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for the implementation of this part, including rules for the conduct of hearings, injured spouse claims, and appointment of hearing examiners.

Amended by Chapter 169, 2022 General Session

**Part 4
Infrastructure Revolving Loan Funds**

63A-3-401.5 Definitions.

As used in this part:

- (1) "Borrower" means a person who borrows money from an infrastructure fund for an infrastructure project.
- (2) "Independent political subdivision" means:
 - (a) the Utah Inland Port Authority created in Section 11-58-201;
 - (b) the Point of the Mountain State Land Authority created in Section 11-59-201; or
 - (c) the Military Installation Development Authority created in Section 63H-1-201.
- (3) "Infrastructure fund" means a fund created in Subsection 63A-3-402(1).
- (4) "Infrastructure loan" means a loan of infrastructure fund money to finance an infrastructure project.
- (5) "Infrastructure project" means a project to acquire, construct, reconstruct, rehabilitate, equip, or improve public infrastructure and improvements:
 - (a) within a project area; or
 - (b) outside a project area, if the respective loan approval body determines by resolution that the public infrastructure and improvements are of benefit to the project area.

- (6) "Inland port" means the same as that term is defined in Section 11-58-102.
- (7) "Inland port fund" means the infrastructure fund created in Subsection 63A-3-402(1)(a).
- (8) "Military development fund" means the infrastructure fund created in Subsection 63A-3-402(1)(c).
- (9) "Point of the mountain fund" means the infrastructure fund created in Subsection 63A-3-402(1)(b).
- (10) "Project area" means:
 - (a) the same as that term is defined in Section 11-58-102, for purposes of an infrastructure loan from the inland port fund;
 - (b) the point of the mountain state land, as defined in Section 11-59-102, for purposes of an infrastructure loan from the point of the mountain fund; and
 - (c) the same as that term is defined in Section 63H-1-102, for purposes of an infrastructure loan from the military development fund.
- (11) "Property tax revenue" means:
 - (a) property tax differential, as defined in Section 11-58-102, for purposes of an infrastructure loan from the inland port fund; or
 - (b) property tax allocation, as defined in Section 63H-1-102, for purposes of an infrastructure loan from the military development fund.
- (12) "Public infrastructure and improvements":
 - (a) means the same as that term is defined in Section 11-58-102, for purposes of an infrastructure loan from the inland port fund;
 - (b) means publicly owned infrastructure and improvements, as defined in Section 11-59-102, for purposes of an infrastructure loan from the point of the mountain fund; and
 - (c) means the same as that term is defined in Section 63H-1-102, for purposes of an infrastructure loan from the military development fund.
- (13) "Respective loan approval body" means:
 - (a) the board created in Section 11-58-301, for purposes of an infrastructure loan from the inland port fund;
 - (b) the board created in Section 11-59-301, for purposes of an infrastructure loan from the point of the mountain fund; and
 - (c) the committee created in Section 63H-1-104, for purposes of an infrastructure loan from the military development fund.

Amended by Chapter 259, 2023 General Session

63A-3-402 Infrastructure funds established -- Purpose of funds -- Use of money in funds.

- (1) There are created, as enterprise revolving loan funds:
 - (a) the inland port infrastructure revolving loan fund;
 - (b) the point of the mountain infrastructure revolving loan fund; and
 - (c) the military development infrastructure revolving loan fund.
- (2) The purpose of each infrastructure fund is to provide funding, through infrastructure loans, for infrastructure projects undertaken by a borrower.
- (3)
 - (a) Money in an infrastructure fund may be used only to provide loans for infrastructure projects.
 - (b) The division may not loan money in an infrastructure fund without the approval of:
 - (i) the respective loan approval body; and
 - (ii) the Executive Appropriations Committee of the Legislature, for a loan from the inland port fund or the point of the mountain fund.

Amended by Chapter 259, 2023 General Session

63A-3-403 Money in infrastructure funds.

- (1) Money in each of the infrastructure funds shall be kept separate and accounted for separately from money in the other infrastructure funds.
- (2) Each infrastructure fund includes money:
 - (a) appropriated to that fund by the Legislature;
 - (b) transferred to the fund from the State Infrastructure Bank Fund created in Section 72-2-202, if applicable;
 - (c) from federal, state, or other public grants or contributions;
 - (d) that an independent political subdivision transfers to the fund from other money available to the independent political subdivision;
 - (e) contributed or granted to the infrastructure fund from a private source; and
 - (f) collected from repayments of loans of infrastructure fund money.
- (3) In addition to money identified in Subsection (2), the military development fund includes money repaid under the terms of a loan agreement, as described in Section 63A-3-404, executed on or after October 1, 2021, from a loan under Subsection 63B-27-101(3)(a)(i).
- (4)
 - (a) Each infrastructure fund shall earn interest.
 - (b) All interest earned on infrastructure fund money shall be deposited into the respective infrastructure fund and included in the money of the infrastructure fund available to be loaned.
- (5) The state treasurer shall invest infrastructure fund money as provided in Title 51, Chapter 7, State Money Management Act.

Amended by Chapter 463, 2022 General Session

63A-3-404 Loan agreement.

- (1)
 - (a) A borrower that borrows money from an infrastructure fund shall enter into a loan agreement with the division for repayment of the money.
 - (b)
 - (i) A loan agreement under Subsection (1)(a) shall be secured by:
 - (A) bonds, notes, or another evidence of indebtedness validly issued under state law; or
 - (B) revenue generated from an infrastructure project.
 - (ii) The security provided under Subsection (1)(b)(i) may include the borrower's pledge of some or all of a revenue source that the borrower controls.
 - (c) The respective loan approval body may determine that property tax revenue or revenue from the infrastructure project for which the infrastructure loan is obtained is sufficient security for an infrastructure loan.
- (2) An infrastructure loan shall bear interest at a rate not to exceed .5% above bond market interest rates available to the state.
- (3)
 - (a) Subject to Subsection (3)(b), the respective loan approval body shall determine the length of term of an infrastructure loan.
 - (b) If the security for an infrastructure loan is property tax revenue, the repayment terms of the infrastructure loan agreement shall allow sufficient time for the property tax revenue to generate sufficient money to cover payments under the infrastructure loan.

- (4) An infrastructure loan agreement may provide for a portion of the loan proceeds to be applied to a reserve fund to secure repayment of the infrastructure loan.
- (5)
 - (a) If a borrower fails to comply with the terms of an infrastructure loan agreement, the division may:
 - (i) seek any legal or equitable remedy to obtain:
 - (A) compliance with the agreement; or
 - (B) the payment of damages; and
 - (ii) request a state agency with money due to the borrower to withhold payment of the money to the borrower and instead to pay the money to the division to pay any amount due under the infrastructure loan agreement.
 - (b) A state agency that receives a request from the division under Subsection (5)(a)(ii) shall pay to the division the money due to the borrower to the extent of the amount due under the infrastructure loan agreement.
- (6) Upon approval from the respective loan approval body the division shall loan money from an infrastructure fund according to the terms established by the respective loan approval body.
- (7)
 - (a) The division shall administer and enforce an infrastructure loan according to the terms of the infrastructure loan agreement.
 - (b)
 - (i) Beginning May 5, 2021, the division shall assume responsibility from the State Infrastructure Bank Fund for servicing the loan under Subsection 63B-27-101(3)(a)(i).
 - (ii) Payments due on or after October 1, 2021, under the loan under Subsection 63B-27-101(3)(a)(i) shall be made to the division rather than to the State Infrastructure Bank Fund, to be deposited into the military development fund.
 - (iii) Notwithstanding Subsection (7)(b)(ii) and upon receipt of each debt service payment, the division shall deposit an amount equal to interest payments due on the bond described in Subsection 63B-27-101(3)(a)(i) into the Transportation Investment Fund of 2005 created in Section 72-2-124.

Amended by Chapter 237, 2022 General Session
Amended by Chapter 463, 2022 General Session

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) collect interest and fees related to the collection of receivables under this chapter, and establish, by following the procedures and requirements of Section 63J-1-504:
 - (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 113, 2023 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 established by the office under 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 used to pay for:
 - (a) the costs of the office in the performance of the office's duties under this chapter;
 - (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; and
 - (e) other legal obligations including those ordered by a court.
- (4)
 - (a) The fund may collect interest.
 - (b) All interest earned from the fund shall be deposited in 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 260, 2021 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

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 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 145, 2021 General Session

Amended by Chapter 260, 2021 General Session