

REPEAL OF STATE DEBT COLLECTION

ADVISORY BOARD

2005 GENERAL SESSION

STATE OF UTAH

Sponsor: Douglas C. Aagard

LONG TITLE

General Description:

This bill repeals the Advisory Board to the Office of State Debt Collection.

Highlighted Provisions:

This bill:

- ▶ repeals the Advisory Board to the Office of State Debt Collection.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63A-8-101, as last amended by Chapter 135, Laws of Utah 2002

63A-8-201, as last amended by Chapter 135, Laws of Utah 2002

63A-8-203, as enacted by Chapter 354, Laws of Utah 1995

REPEALS:

63A-8-202, as last amended by Chapter 243, Laws of Utah 1996

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **63A-8-101** is amended to read:

63A-8-101. Definitions.

As used in this chapter:

(1) (a) "Accounts receivable" or "receivables" means any amount due the state from an

entity for which payment has not been received by the state agency that is servicing the debt.

(b) "Accounts receivable" includes unpaid fees, licenses, taxes, loans, overpayments, fines, forfeitures, surcharges, costs, contracts, interest, penalties, restitution to victims, third-party claims, sale of goods, sale of services, claims, and damages.

(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 the state; 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 the state.

~~[(3) "Board" means the advisory board created by this chapter.]~~

~~[(4)]~~ (3) "Entity" means an individual, a corporation, partnership, or other organization that pays taxes to or does business with the state.

~~[(5)]~~ (4) "Office" means the Office of State Debt Collection established by this chapter.

~~[(6)]~~ (5) "Past due" means any accounts receivable that the state has not received by the payment due date.

~~[(7)]~~ (6) (a) "State agency" includes any department, division, commission, council, board, bureau, committee, office, or other administrative subunit of Utah state government, including the legislative and judicial branches of state government.

(b) "State agency" does not include:

(i) any institution of higher education; or

(ii) except in Subsection 63A-8-201(7)(g), the State Tax Commission.

~~[(8)]~~ (7) "Writing-off" means the removal of an accounts receivable from an agency's accounts receivable records but does not necessarily eliminate further collection efforts.

Section 2. Section **63A-8-201** is amended to read:

63A-8-201. Office of State Debt Collection created -- Duties.

(1) The state and each state agency shall comply with the requirements of this chapter and any rules established by the Office of State Debt Collection.

(2) There is created the Office of State Debt Collection in the Department of

Administrative Services.

- (3) The office shall:
 - (a) have overall responsibility for collecting and managing state receivables;
 - (b) 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) develop policies, procedures, and guidelines for accounting, reporting, and collecting monies owed to the state;
 - (e) provide information, training, and technical assistance to all state agencies on various collection-related topics;
 - (f) write an inclusive receivables management and collection manual for use by all state agencies;
 - (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 those state agencies that are not making satisfactory progress toward implementing collection techniques and improving accounts receivable collections;
 - (k) coordinate information, systems, and procedures between state agencies to maximize the collection of past-due accounts receivable;
 - (l) establish an automated cash receipt process between state agencies;
 - (m) 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 its designee;

(o) be a real party in interest for an account receivable referred to the office by any state agency; and

(p) allocate monies collected for judgments registered under Section 77-18-6 in accordance with Sections 63-63a-2, 63A-8-302, and 78-3-14.5.

(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 its 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 of any state agency that are necessary to the duties of the office by following the procedures and requirements of Section 63-2-206;

(g) by following the procedures and requirements of Section 63-38-3.2 establish:

(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) make rules that allow accounts receivable to be collected over a reasonable period of time and under certain conditions with credit cards;
 - (i) file a satisfaction of judgment in the district court by following the procedures and requirements of the Utah Rules of Civil Procedure;
 - (j) ensure that judgments for which the office is the judgment creditor are renewed, as necessary; and
 - (k) notwithstanding Section 63-2-206, 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.
- (5) The office shall ensure that:
- (a) a record obtained by the office or a private sector vendor as referred to in Subsection (4)(k):
 - (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 person employed by, or formerly employed by, the office or a private sector vendor as referred to in Subsection (4)(k) 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 accounts receivable ordered by the district court as a result of prosecution for a criminal offense that have been transferred to the office under Subsection 76-3-201.1(5)(h) or (8).
- (b) The office may not assess 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.

(7) The office shall require state agencies to:

(a) transfer collection responsibilities to the office or its 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 ~~[, with the consent of the board,]~~ develop systems that are adequate to properly account for and report their 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 their management and collection of receivables as a supplement to statewide training;

(f) bill for and make initial collection efforts of its 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) The office shall use the information provided by the agencies and any additional information from the office's records to compile a one-page summary report of each agency.

(9) The summary shall include:

(a) the type of revenue that is owed to the agency;

(b) any attempted collection activity; and

(c) any costs incurred in the collection process.

(10) The office shall annually provide copies of each agency's summary to the governor and to the Legislature.

Section 3. Section **63A-8-203** is amended to read:

63A-8-203. 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 owed to the state; and

(2) establish[, ~~with the concurrence of the board,~~] policies governing:

- (a) legal matters involving accounts receivable; and
- (b) litigation of past-due accounts receivable.

Section 4. Repealer.

This bill repeals:

Section 63A-8-202, Advisory Board created -- Duties.