

1 **OFFICE OF STATE DEBT COLLECTION**

2 **AMENDMENTS**

3 2006 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Peter C. Knudson**

6 House Sponsor: Fred R. Hunsaker

7

8 **LONG TITLE**

9 **General Description:**

10 This bill modifies Title 63A, Chapter 8, Office of State Debt Collection, to amend
11 certain funding provisions of the Office of State Debt Collection.

12 **Highlighted Provisions:**

13 This bill:

- 14 ▶ allows the Office of State Debt Collection to:
- 15 • collect reasonable attorney's fees and reasonable costs of collection that are
 - 16 related to certain collections; and
 - 17 • collect interest and fees that are related to certain collections of receivables;
 - 18 ▶ changes the State Debt Collection Fund from an internal service fund to a restricted
 - 19 special revenue fund;
 - 20 ▶ establishes certain allowed uses of the fund monies;
 - 21 ▶ requires the office to report at least annually to the Legislature on the fund;
 - 22 ▶ provides certain rulemaking authority; and
 - 23 ▶ makes technical changes.

24 **Monies Appropriated in this Bill:**

25 None

26 **Other Special Clauses:**

27 This bill takes effect on July 1, 2006.



28 **Utah Code Sections Affected:**

29 AMENDS:

30 **63A-8-201**, as last amended by Chapter 23, Laws of Utah 2005

31 **63A-8-204**, as enacted by Chapter 354, Laws of Utah 1995

32 **63A-8-301**, as last amended by Chapter 135, Laws of Utah 2002

33

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

35 Section 1. Section **63A-8-201** is amended to read:

36 **63A-8-201. Office of State Debt Collection created -- Duties.**

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

39 (2) There is created the Office of State Debt Collection in the Department of
40 Administrative Services.

41 (3) The office shall:

42 (a) have overall responsibility for collecting and managing state receivables;

43 (b) develop consistent policies governing the collection and management of state
44 receivables;

45 (c) oversee and monitor state receivables to ensure that state agencies are:

46 (i) implementing all appropriate collection methods;

47 (ii) following established receivables guidelines; and

48 (iii) accounting for and reporting receivables in the appropriate manner;

49 (d) develop policies, procedures, and guidelines for accounting, reporting, and
50 collecting monies owed to the state;

51 (e) provide information, training, and technical assistance to all state agencies on
52 various collection-related topics;

53 (f) write an inclusive receivables management and collection manual for use by all
54 state agencies;

55 (g) prepare quarterly and annual reports of the state's receivables;

56 (h) create or coordinate a state accounts receivable database;

57 (i) develop reasonable criteria to gauge state agencies' efforts in maintaining an
58 effective accounts receivable program;

- 59 (j) identify those state agencies that are not making satisfactory progress toward
60 implementing collection techniques and improving accounts receivable collections;
- 61 (k) coordinate information, systems, and procedures between state agencies to
62 maximize the collection of past-due accounts receivable;
- 63 (l) establish an automated cash receipt process between state agencies;
- 64 (m) establish procedures for writing off accounts receivable for accounting and
65 collection purposes;
- 66 (n) establish standard time limits after which an agency will delegate responsibility to
67 collect state receivables to the office or its designee;
- 68 (o) be a real party in interest for an account receivable referred to the office by any
69 state agency; and
- 70 (p) allocate monies collected for judgments registered under Section 77-18-6 in
71 accordance with Sections 63-63a-2, 63A-8-302, and 78-3-14.5.
- 72 (4) The office may:
- 73 (a) recommend to the Legislature new laws to enhance collection of past-due accounts
74 by state agencies;
- 75 (b) collect accounts receivables for higher education entities, if the higher education
76 entity agrees;
- 77 (c) prepare a request for proposal for consulting services to:
- 78 (i) analyze the state's receivable management and collection efforts; and
79 (ii) identify improvements needed to further enhance the state's effectiveness in
80 collecting its receivables;
- 81 (d) contract with private or state agencies to collect past-due accounts;
- 82 (e) perform other appropriate and cost-effective coordinating work directly related to
83 collection of state receivables;
- 84 (f) obtain access to records of any state agency that are necessary to the duties of the
85 office by following the procedures and requirements of Section 63-2-206;
- 86 (g) collect interest and fees related to the collection of receivables under this chapter,
87 and establish, by following the procedures and requirements of Section 63-38-3.2 [~~establish~~]:
- 88 (i) a fee to cover the administrative costs of collection, on accounts administered by the
89 office;

- 90 (ii) a late penalty fee that may not be more than 10% of the account receivable on
91 accounts administered by the office;
- 92 (iii) an interest charge that is:
- 93 (A) the postjudgment interest rate established by Section 15-1-4 in judgments
94 established by the courts; or
- 95 (B) not more than 2% above the prime rate as of July 1 of each fiscal year for accounts
96 receivable for which no court judgment has been entered; and
- 97 (iv) fees to collect accounts receivable for higher education;
- 98 (h) collect reasonable attorney's fees and reasonable costs of collection that are related
99 to the collection of receivables under this chapter;
- 100 ~~(i)~~ (i) make rules that allow accounts receivable to be collected over a reasonable
101 period of time and under certain conditions with credit cards;
- 102 ~~(j)~~ (j) file a satisfaction of judgment in the district court by following the procedures
103 and requirements of the Utah Rules of Civil Procedure;
- 104 ~~(k)~~ (k) ensure that judgments for which the office is the judgment creditor are
105 renewed, as necessary; and
- 106 ~~(l)~~ (l) notwithstanding Section 63-2-206, share records obtained under Subsection
107 (4)(f) with private sector vendors under contract with the state to assist state agencies in
108 collecting debts owed to the state agencies without changing the classification of any private,
109 controlled, or protected record into a public record.
- 110 (5) The office shall ensure that:
- 111 (a) a record obtained by the office or a private sector vendor as referred to in
112 Subsection (4)~~(k)~~(l):
- 113 (i) is used only for the limited purpose of collecting accounts receivable; and
114 (ii) is subject to federal, state, and local agency records restrictions; and
- 115 (b) any person employed by, or formerly employed by, the office or a private sector
116 vendor as referred to in Subsection (4)~~(k)~~(l) is subject to:
- 117 (i) the same duty of confidentiality with respect to the record imposed by law on
118 officers and employees of the state agency from which the record was obtained; and
119 (ii) any civil or criminal penalties imposed by law for violations of lawful access to a
120 private, controlled, or protected record.

121 (6) (a) The office shall collect accounts receivable ordered by the district court as a
122 result of prosecution for a criminal offense that have been transferred to the office under
123 Subsection 76-3-201.1(5)(h) or (8).

124 (b) The office may not assess the interest charge established by the office under
125 Subsection (4) on an account receivable subject to the postjudgment interest rate established by
126 Section 15-1-4.

127 (7) The office shall require state agencies to:

128 (a) transfer collection responsibilities to the office or its designee according to time
129 limits established by the office;

130 (b) make annual progress towards implementing collection techniques and improved
131 accounts receivable collections;

132 (c) use the state's accounts receivable system or develop systems that are adequate to
133 properly account for and report their receivables;

134 (d) develop and implement internal policies and procedures that comply with the
135 collections policies and guidelines established by the office;

136 (e) provide internal accounts receivable training to staff involved in their management
137 and collection of receivables as a supplement to statewide training;

138 (f) bill for and make initial collection efforts of its receivables up to the time the
139 accounts must be transferred; and

140 (g) submit quarterly receivable reports to the office that identify the age, collection
141 status, and funding source of each receivable.

142 (8) The office shall use the information provided by the agencies and any additional
143 information from the office's records to compile a one-page summary report of each agency.

144 (9) The summary shall include:

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

146 (b) any attempted collection activity; and

147 (c) any costs incurred in the collection process.

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

150 Section 2. Section **63A-8-204** is amended to read:

151 **63A-8-204. Rulemaking authority -- Collection techniques.**

152 ~~[The office shall establish rules]~~ In accordance with Title 63, Chapter 46a, Utah
153 Administrative Rulemaking Act, the office shall make rules:

154 (1) providing details, as necessary, for the distribution of debts collected in accordance
155 with the priorities under Subsection 63A-8-301(3); and

156 (2) to govern collection techniques, which may include the use of:

157 ~~[(1)]~~ (a) credit reporting bureaus;

158 ~~[(2)]~~ (b) collection agencies;

159 ~~[(3)]~~ (c) garnishments;

160 ~~[(4)]~~ (d) liens;

161 ~~[(5)]~~ (e) judgments; and

162 ~~[(6)]~~ (f) administrative offsets.

163 Section 3. Section **63A-8-301** is amended to read:

164 **63A-8-301. State Debt Collection Fund.**

165 (1) There is created ~~[an internal service]~~ a restricted special revenue fund entitled the
166 "State Debt Collection Fund."

167 ~~[(2) The fund shall be governed by the provisions for internal service funds in Section~~
168 ~~63-38-3.5.]~~

169 ~~[(3)]~~ (2) The fund consists of:

170 (a) all amounts appropriated to the fund under this chapter;

171 (b) fees and interest established by the office under Subsection 63A-8-201(4)(g); and

172 (c) except as otherwise provided by law, all postjudgment interest collected by the
173 office or the state except postjudgment interest on restitution.

174 ~~[(4) Monies in this fund shall be used to offset systems, administrative, legal, and other~~
175 ~~collection costs of the office or the state agency.]~~

176 (3) Monies in this fund shall be used to pay for:

177 (a) the costs of the office in the performance of its duties under this chapter;

178 (b) restitution to victims to whom the debt is owed;

179 (c) interest accrued that is associated with the debt;

180 (d) principal on the debt to the state agencies or other entities that placed the receivable
181 for collection; and

182 (e) other legal obligations including those ordered by a court.

183 ~~[(5)]~~ (4) (a) The fund may collect interest.
184 (b) All interest earned from the fund shall be deposited in the General Fund.
185 ~~[(6)]~~ (5) The office shall ensure that monies remaining in the fund at the end of the
186 fiscal year that are not committed ~~[to offsets]~~ under the priorities established under Subsection
187 (3), are deposited into the General Fund.
188 (6) (a) The office shall report at least annually to the appropriations subcommittee
189 assigned to review the budget of the Department of Administrative Services on the fund
190 balance and its revenues and expenditures and administrative offsets.
191 (b) The report shall include the amounts paid under each provision under Subsection
192 (3).
193 Section 4. **Effective date.**
194 This bill takes effect on July 1, 2006.

Legislative Review Note
as of 2-1-06 4:06 PM

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

Office of Legislative Research and General Counsel