

OFFICE OF STATE DEBT COLLECTION AMENDMENTS

2015 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Lyle W. Hillyard

House Sponsor: Jack R. Draxler

LONG TITLE

General Description:

This bill modifies provisions relating to fines and fees charged by the Office of State Debt Collection.

Highlighted Provisions:

This bill:

► provides that all interest, fees, and other amounts authorized to be charged by the Office of State Debt Collection:

- are penalties that may be charged by the office; and
- are not compensation for actual pecuniary loss; and

► makes technical corrections.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63A-3-502, as last amended by Laws of Utah 2013, Chapter 74

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

Section 1. Section **63A-3-502** is amended to read:

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

(1) The state and each state agency shall comply with the requirements of this chapter

- 30 and any rules established by the Office of State Debt Collection.
- 31 (2) There is created the Office of State Debt Collection in the Division of Finance.
- 32 (3) The office shall:
- 33 (a) have overall responsibility for collecting and managing state receivables;
- 34 (b) assist the Division of Finance to develop consistent policies governing the
- 35 collection and management of state receivables;
- 36 (c) oversee and monitor state receivables to ensure that state agencies are:
- 37 (i) implementing all appropriate collection methods;
- 38 (ii) following established receivables guidelines; and
- 39 (iii) accounting for and reporting receivables in the appropriate manner;
- 40 (d) assist the Division of Finance to develop policies, procedures, and guidelines for
- 41 accounting, reporting, and collecting money owed to the state;
- 42 (e) provide information, training, and technical assistance to each state agency on
- 43 various collection-related topics;
- 44 (f) write an inclusive receivables management and collection manual for use by each
- 45 state agency;
- 46 (g) prepare quarterly and annual reports of the state's receivables;
- 47 (h) create or coordinate a state accounts receivable database;
- 48 (i) develop reasonable criteria to gauge state agencies' efforts in maintaining an
- 49 effective accounts receivable program;
- 50 (j) identify any state agency that is not making satisfactory progress toward
- 51 implementing collection techniques and improving accounts receivable collections;
- 52 (k) coordinate information, systems, and procedures between each state agency to
- 53 maximize the collection of past-due accounts receivable;
- 54 (l) establish an automated cash receipt process between each state agency;
- 55 (m) assist the Division of Finance to establish procedures for writing off accounts
- 56 receivable for accounting and collection purposes;
- 57 (n) establish standard time limits after which an agency will delegate responsibility to

58 collect state receivables to the office or its designee;

59 (o) be a real party in interest for an account receivable referred to the office by any
60 state agency or for any restitution to victims referred to the office by a court; and

61 (p) allocate money collected for judgments registered under Section 77-18-6 in
62 accordance with Sections 51-9-402, 63A-3-506, and 78A-5-110.

63 (4) The office may:

64 (a) recommend to the Legislature new laws to enhance collection of past-due accounts
65 by state agencies;

66 (b) collect accounts receivables for higher education entities, if the higher education
67 entity agrees;

68 (c) prepare a request for proposal for consulting services to:

69 (i) analyze the state's receivable management and collection efforts; and

70 (ii) identify improvements needed to further enhance the state's effectiveness in
71 collecting its receivables;

72 (d) contract with private or state agencies to collect past-due accounts;

73 (e) perform other appropriate and cost-effective coordinating work directly related to
74 collection of state receivables;

75 (f) obtain access to records and databases of any state agency that are necessary to the
76 duties of the office by following the procedures and requirements of Section 63G-2-206,
77 including the financial disclosure form described in Section [~~78-38a-204~~] 77-38a-204;

78 (g) collect interest and fees related to the collection of receivables under this chapter,
79 and establish, by following the procedures and requirements of Section 63J-1-504:

80 (i) a fee to cover the administrative costs of collection, on accounts administered by the
81 office;

82 (ii) a late penalty fee that may not be more than 10% of the account receivable on
83 accounts administered by the office;

84 (iii) an interest charge that is:

85 (A) the postjudgment interest rate established by Section 15-1-4 in judgments

86 established by the courts; or

87 (B) not more than 2% above the prime rate as of July 1 of each fiscal year for accounts
88 receivable for which no court judgment has been entered; and

89 (iv) fees to collect accounts receivable for higher education;

90 (h) collect reasonable attorney fees and reasonable costs of collection that are related to
91 the collection of receivables under this chapter;

92 (i) make rules that allow accounts receivable to be collected over a reasonable period
93 of time and under certain conditions with credit cards;

94 (j) file a satisfaction of judgment in the court by following the procedures and
95 requirements of the Utah Rules of Civil Procedure;

96 (k) ensure that judgments for which the office is the judgment creditor are renewed, as
97 necessary;

98 (l) notwithstanding Section [63G-2-206](#), share records obtained under Subsection (4)(f)
99 with private sector vendors under contract with the state to assist state agencies in collecting
100 debts owed to the state agencies without changing the classification of any private, controlled,
101 or protected record into a public record; and

102 (m) enter into written agreements with other governmental agencies to obtain
103 information for the purpose of collecting state accounts receivable and restitution for victims.

104 (5) The office shall ensure that:

105 (a) a record obtained by the office or a private sector vendor as referred to in
106 Subsection (4)(l):

107 (i) is used only for the limited purpose of collecting accounts receivable; and

108 (ii) is subject to federal, state, and local agency records restrictions; and

109 (b) any person employed by, or formerly employed by, the office or a private sector
110 vendor as referred to in Subsection (4)(l) is subject to:

111 (i) the same duty of confidentiality with respect to the record imposed by law on
112 officers and employees of the state agency from which the record was obtained; and

113 (ii) any civil or criminal penalties imposed by law for violations of lawful access to a

114 private, controlled, or protected record.

115 (6) (a) The office shall collect accounts receivable ordered by a court as a result of
116 prosecution for a criminal offense that have been transferred to the office under Subsection
117 76-3-201.1(5)(h) or (8).

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

121 (7) The office shall require a state agency to:

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

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

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

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

130 (e) provide internal accounts receivable training to staff involved in the management
131 and collection of receivables as a supplement to statewide training;

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

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

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

138 (9) The summary shall include:

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

140 (b) any attempted collection activity; and

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

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

144 (11) All interest, fees, and other amounts authorized to be charged by the office under

145 Subsection (4):

146 (a) are penalties that may be charged by the office; and

147 (b) are not compensation for actual pecuniary loss.