

1 **DEBT COLLECTION AMENDMENTS**

2 2016 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Lyle W. Hillyard**

5 House Sponsor: Jack R. Draxler

7 **LONG TITLE**

8 **General Description:**

9 This bill modifies the Utah Administrative Services Code by amending provisions
10 relating to debt collection.

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ provides definitions;
- 14 ▶ provides that a political subdivision may proceed to collect certain delinquent
15 accounts receivable;
- 16 ▶ authorizes the Office of State Debt Collection to collect accounts receivable for a
17 political subdivision of the state in certain circumstances; and
- 18 ▶ makes technical changes.

19 **Money Appropriated in this Bill:**

20 None

21 **Other Special Clauses:**

22 None

23 **Utah Code Sections Affected:**

24 AMENDS:

25 **63A-3-302**, as enacted by Laws of Utah 1993, Chapter 212

26 **63A-3-501**, as last amended by Laws of Utah 2014, Chapter 286

27 **63A-3-502**, as last amended by Laws of Utah 2015, Chapters 193 and 258

28
29 *Be it enacted by the Legislature of the state of Utah:*

30 Section 1. Section **63A-3-302** is amended to read:

31 **63A-3-302. Unpaid accounts receivable due the state.**

32 If any account receivable has been unpaid for more than 90 days, any agency,
33 department, division, commission, committee, board, council, institution, [or] any other
34 authority of state government, or any political subdivision, as defined in Section 63G-7-102, of
35 the state responsible for collection of the account may proceed under this part to collect the
36 delinquent amount.

37 Section 2. Section **63A-3-501** is amended to read:

38 **63A-3-501. Definitions.**

39 As used in this part:

40 (1) (a) "Accounts receivable" or "receivables" means any amount due to a state agency
41 from an entity for which payment has not been received by the state agency that is servicing the
42 debt.

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

46 (2) "Administrative offset" means:

47 (a) a reduction of an individual's tax refund or other payments due to the individual to
48 reduce or eliminate accounts receivable that the individual owes to a state agency; and

49 (b) a reduction of an entity's tax refund or other payments due to the entity to reduce or
50 eliminate accounts receivable that the entity owes to a state agency.

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

53 (4) "Office" means the Office of State Debt Collection established by this part.

54 (5) "Past due" means any accounts receivable that the state has not received by the
55 payment due date.

56 (6) "Political subdivision" means the same as that term is defined in Section
57 63G-7-102.

58 ~~[(6)]~~ (7) "Restitution to victims" means restitution ordered by a court to be paid to a
59 victim of an offense in a criminal or juvenile proceeding.

60 ~~[(7)]~~ (8) (a) "State agency" includes:

61 (i) any department, division, commission, council, board, bureau, committee, office, or
62 other administrative subunit of Utah state government;

63 (ii) the legislative branch of state government; and

64 (iii) the judicial branches of state government, including justice courts.

65 (b) "State agency" does not include:

66 (i) any institution of higher education;

67 (ii) except in Subsection 63A-3-502(7)(g), the State Tax Commission; or

68 (iii) the administrator of the Uninsured Employers' Fund appointed by the Labor

69 Commissioner under Section 34A-2-704, solely for the purposes of collecting money required
70 to be deposited into the Uninsured Employers' Fund under:

71 (A) Section 34A-1-405;

72 (B) Title 34A, Chapter 2, Workers' Compensation Act; or

73 (C) Title 34A, Chapter 3, Utah Occupational Disease Act.

74 ~~[(8)]~~ (9) "Writing-off" means the removal of an accounts receivable from an agency's
75 accounts receivable records but does not necessarily eliminate further collection efforts.

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

77 **63A-3-502. Office of State Debt Collection created -- Duties.**

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

80 (2) There is created the Office of State Debt Collection in the Division of Finance.

81 (3) The office shall:

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

83 (b) assist the Division of Finance to develop consistent policies governing the
84 collection and management of state receivables;

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

- 86 (i) implementing all appropriate collection methods;
- 87 (ii) following established receivables guidelines; and
- 88 (iii) accounting for and reporting receivables in the appropriate manner;
- 89 (d) assist the Division of Finance to develop policies, procedures, and guidelines for
- 90 accounting, reporting, and collecting money owed to the state;
- 91 (e) provide information, training, and technical assistance to each state agency on
- 92 various collection-related topics;
- 93 (f) write an inclusive receivables management and collection manual for use by each
- 94 state agency;
- 95 (g) prepare quarterly and annual reports of the state's receivables;
- 96 (h) create or coordinate a state accounts receivable database;
- 97 (i) develop reasonable criteria to gauge state agencies' efforts in maintaining an
- 98 effective accounts receivable program;
- 99 (j) identify any state agency that is not making satisfactory progress toward
- 100 implementing collection techniques and improving accounts receivable collections;
- 101 (k) coordinate information, systems, and procedures between each state agency to
- 102 maximize the collection of past-due accounts receivable;
- 103 (l) establish an automated cash receipt process between each state agency;
- 104 (m) assist the Division of Finance to establish procedures for writing off accounts
- 105 receivable for accounting and collection purposes;
- 106 (n) establish standard time limits after which an agency will delegate responsibility to
- 107 collect state receivables to the office or its designee;
- 108 (o) be a real party in interest for an account receivable referred to the office by any
- 109 state agency or for any restitution to victims referred to the office by a court; and
- 110 (p) allocate money collected for judgments registered under Section 77-18-6 in
- 111 accordance with Sections 51-9-402, 63A-3-506, and 78A-5-110.
- 112 (4) The office may:
- 113 (a) recommend to the Legislature new laws to enhance collection of past-due accounts

- 114 by state agencies;
- 115 (b) collect accounts receivables for higher education entities, if the higher education
- 116 entity agrees;
- 117 (c) prepare a request for proposal for consulting services to:
 - 118 (i) analyze the state's receivable management and collection efforts; and
 - 119 (ii) identify improvements needed to further enhance the state's effectiveness in
 - 120 collecting its receivables;
- 121 (d) contract with private or state agencies to collect past-due accounts;
- 122 (e) perform other appropriate and cost-effective coordinating work directly related to
- 123 collection of state receivables;
- 124 (f) obtain access to records and databases of any state agency that are necessary to the
- 125 duties of the office by following the procedures and requirements of Section [63G-2-206](#),
- 126 including the financial disclosure form described in Section [77-38a-204](#);
- 127 (g) collect interest and fees related to the collection of receivables under this chapter,
- 128 and establish, by following the procedures and requirements of Section [63J-1-504](#):
 - 129 (i) a fee to cover the administrative costs of collection, on accounts administered by the
 - 130 office;
 - 131 (ii) a late penalty fee that may not be more than 10% of the account receivable on
 - 132 accounts administered by the office;
 - 133 (iii) an interest charge that is:
 - 134 (A) the postjudgment interest rate established by Section [15-1-4](#) in judgments
 - 135 established by the courts; or
 - 136 (B) not more than 2% above the prime rate as of July 1 of each fiscal year for accounts
 - 137 receivable for which no court judgment has been entered; and
 - 138 (iv) fees to collect accounts receivable for higher education;
- 139 (h) collect reasonable attorney fees and reasonable costs of collection that are related to
- 140 the collection of receivables under this chapter;
- 141 (i) make rules that allow accounts receivable to be collected over a reasonable period

142 of time and under certain conditions with credit cards;

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

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

147 (l) notwithstanding Section 63G-2-206, share records obtained under Subsection (4)(f)
148 with private sector vendors under contract with the state to assist state agencies in collecting
149 debts owed to the state agencies without changing the classification of any private, controlled,
150 or protected record into a public record; ~~and~~

151 (m) enter into written agreements with other governmental agencies to obtain
152 information for the purpose of collecting state accounts receivable and restitution for victims;
153 and

154 (n) collect accounts receivable for a political subdivision of the state, if the political
155 subdivision enters into an agreement or contract with the office under Title 11, Chapter 13,
156 Interlocal Cooperation Act, for the office to collect the political subdivision's accounts
157 receivable.

158 (5) The office shall ensure that:

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

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

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

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

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

167 (ii) any civil or criminal penalties imposed by law for violations of lawful access to a
168 private, controlled, or protected record.

169 (6) (a) The office shall collect accounts receivable ordered by a court as a result of

170 prosecution for a criminal offense that have been transferred to the office under Subsection
171 76-3-201.1(5)(h) or (8).

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

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

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

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

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

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

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

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

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

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

192 (9) The summary shall include:

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

194 (b) any attempted collection activity; and

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

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

198 (11) All interest, fees, and other amounts authorized to be charged by the office under
199 Subsection (4):
200 (a) are penalties that may be charged by the office; and
201 (b) are not compensation for actual pecuniary loss.