

LOCAL GOVERNMENT DEBT COLLECTION AMENDMENTS

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Ralph Okerlund

House Sponsor: _____

LONG TITLE

General Description:

This bill addresses the collection of local government accounts receivable by the Office of State Debt Collection.

Highlighted Provisions:

This bill:

- ▶ authorizes the Office of State Debt Collection to enter an agreement with a local agency representing participating political subdivisions to collect accounts receivable of participating political subdivisions through administrative offsets;
- ▶ provides for the contents of an agreement;
- ▶ authorizes a local agency to add a collection fee to accounts receivable to be collected by the Office of State Debt Collection; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63A-3-501, as last amended by Laws of Utah 2016, Chapters 129 and 298

63A-3-502, as last amended by Laws of Utah 2017, Chapters 56 and 304



28 **63A-3-506**, as renumbered and amended by Laws of Utah 2011, Chapter 79



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

31 Section 1. Section **63A-3-501** is amended to read:

32 **63A-3-501. Definitions.**

33 As used in this part:

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

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

40 (2) "Administrative offset" means:

41 (a) a reduction of an individual's tax refund or other payments due to the individual to
42 reduce or eliminate accounts receivable that the individual owes to a state agency or political
43 subdivision; and

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

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

48 (4) "Local agency" means a nonprofit entity organized by participating political
49 subdivisions to act on behalf of the participating political subdivisions with respect to the
50 office's efforts to collect accounts receivable of participating political subdivisions through
51 administrative offsets.

52 [~~(4)~~] (5) "Office" means the Office of State Debt Collection established by this part.

53 (6) "Participating political subdivision" means a political subdivision that has entered
54 into an agreement with a local agency authorizing the local agency to act on behalf of the
55 political subdivision with respect to the office's efforts to collect accounts receivable of the
56 political subdivision through administrative offsets.

57 [~~(5)~~] (7) "Past due" means any accounts receivable that the state or a political
58 subdivision has not received by the payment due date.

59 ~~[(6)]~~ (8) "Political subdivision" means the same as that term is defined in Section
60 63G-7-102.

61 ~~[(7)]~~ (9) "Restitution to victims" means restitution ordered by a court to be paid to a
62 victim of an offense in a criminal or juvenile proceeding.

63 ~~[(8)]~~ (10) (a) "State agency" includes:

- 64 (i) an executive branch agency;
- 65 (ii) the legislative branch of state government; and
- 66 (iii) the judicial branches of state government, including justice courts.

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

- 68 (i) any institution of higher education;
- 69 (ii) except in Subsection 63A-3-502(7)(g), the State Tax Commission; or
- 70 (iii) the administrator of the Uninsured Employers' Fund appointed by the Labor
71 Commissioner under Section 34A-2-704, solely for the purposes of collecting money required
72 to be deposited into the Uninsured Employers' Fund under:

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

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

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

76 ~~[(9)]~~ (11) "Writing-off" means the removal of an accounts receivable from an agency's
77 accounts receivable records but does not necessarily eliminate further collection efforts.

78 Section 2. Section 63A-3-502 is amended to read:

79 **63A-3-502. Office of State Debt Collection created -- Duties.**

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

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

83 (3) The office shall:

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

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

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

88 (i) implementing all appropriate collection methods;

89 (ii) following established receivables guidelines; and

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

- 121 (ii) identify improvements needed to further enhance the state's effectiveness in
122 collecting its receivables;
- 123 (d) contract with private or state agencies to collect past-due accounts;
- 124 (e) perform other appropriate and cost-effective coordinating work directly related to
125 collection of state receivables;
- 126 (f) obtain access to records and databases of any state agency that are necessary to the
127 duties of the office by following the procedures and requirements of Section 63G-2-206,
128 including the financial disclosure form described in Section 77-38a-204;
- 129 (g) collect interest and fees related to the collection of receivables under this chapter,
130 and establish, by following the procedures and requirements of Section 63J-1-504:
- 131 (i) a fee to cover the administrative costs of collection, on accounts administered by the
132 office;
- 133 (ii) a late penalty fee that may not be more than 10% of the account receivable on
134 accounts administered by the office;
- 135 (iii) an interest charge that is:
- 136 (A) the postjudgment interest rate established by Section 15-1-4 in judgments
137 established by the courts; or
- 138 (B) not more than 2% above the prime rate as of July 1 of each fiscal year for accounts
139 receivable for which no court judgment has been entered; and
- 140 (iv) fees to collect accounts receivable for higher education;
- 141 (h) collect reasonable attorney fees and reasonable costs of collection that are related to
142 the collection of receivables under this chapter;
- 143 (i) make rules that allow accounts receivable to be collected over a reasonable period
144 of time and under certain conditions with credit cards;
- 145 (j) file a satisfaction of judgment in the court by following the procedures and
146 requirements of the Utah Rules of Civil Procedure;
- 147 (k) ensure that judgments for which the office is the judgment creditor are renewed, as
148 necessary;
- 149 (l) notwithstanding Section 63G-2-206, share records obtained under Subsection (4)(f)
150 with private sector vendors under contract with the state to assist state agencies in collecting
151 debts owed to the state agencies without changing the classification of any private, controlled,

152 or protected record into a public record;

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

156 (n) (i) collect accounts receivable for a political subdivision of the state, if the political
157 subdivision enters into an agreement or contract with the office under Title 11, Chapter 13,
158 Interlocal Cooperation Act, for the office to collect the political subdivision's accounts
159 receivable[-]; and

160 (ii) collect accounts receivable for participating political subdivisions if the office and
161 a local agency enter an agreement that:

162 (A) requires the local agency to compile and consolidate accounts receivable of
163 participating political subdivisions in a format that is consistent with the office's requirements
164 for administrative offsets;

165 (B) recognizes the local agency as an intermediary on behalf of participating political
166 subdivisions to interact with the office in the office's efforts under this part to collect
167 participating political subdivisions' accounts receivable through administrative offsets;

168 (C) may provide for the office to provide to participating political subdivisions
169 whatever assistance the office considers appropriate relating to administrative offsets; and

170 (D) may provide for money that the office collects for participating political
171 subdivisions to be deposited into the public treasurers' investment fund in accordance with
172 Section [51-7-5](#), as directed by the local agency.

173 (5) The office shall ensure that:

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

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

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

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

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

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

183 private, controlled, or protected record.

184 (6) (a) The office shall collect accounts receivable ordered by a court as a result of
185 prosecution for a criminal offense that have been transferred to the office under Section
186 [77-32a-102](#).

187 (b) The office may not assess the interest charge established by the office under
188 Subsection (4) on an account receivable subject to the postjudgment interest rate established by
189 Section [15-1-4](#).

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

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

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

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

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

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

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

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

205 (8) All interest, fees, and other amounts authorized to be charged by the office under
206 Subsection (4):

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

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

209 (9) (a) The office may not enter into a contract under Subsection (4)(n)(ii) with more
210 than a single local agency.

211 (b) (i) A local agency may add a fee of no more than \$25 to each account receivable
212 that the local agency submits to the office for collection through an administrative offset.

213 (ii) The office shall include the fee under Subsection (9)(b)(i) in the amount for which

214 the office seeks recovery through an administrative offset and shall remit to the local agency all
215 fees that the office recovers.

216 Section 3. Section **63A-3-506** is amended to read:

217 **63A-3-506. Allocation of funds.**

218 (1) Except as provided in Subsection (2), the money collected by the office on behalf
219 of state agencies, less the office's fees, shall be allocated on a prorated basis to the various
220 revenue types that generated the accounts receivable.

221 (2) Notwithstanding the requirements of Subsection (1):

222 (a) federal cost allocation requirements for specific accounts receivable related to
223 programs that are supported by federal funds take precedence over other cost allocation
224 methods provided in this section; and

225 (b) the office shall use interest and fees collected on past due accounts receivable as
226 provided in Section **63A-3-505**.