

SB0234S01 compared with SB0234

~~{deleted text}~~ shows text that was in SB0234 but was deleted in SB0234S01.

inserted text shows text that was not in SB0234 but was inserted into SB0234S01.

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~~{LOCAL}~~ Senator Ralph Okerlund proposes the following substitute bill:

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 entities' delinquent accounts receivable by the ~~{Office}~~ Division of ~~{State Debt Collection}~~ Finance.

Highlighted Provisions:

This bill:

- ▶ expands accounts receivable subject to collection efforts of the Division of Finance to include an amount due as a result of a tax;
- ▶ authorizes ~~{the Office of State Debt Collection}~~ a political subdivision to enter into an agreement with a local agency ~~{representing participating}~~ for submitting accounts receivable for collection by the Division of Finance;
- ▶ provides requirements for a political ~~{subdivisions to collect}~~ subdivision that enters into an agreement with a local agency for the collection of accounts receivable ~~{of~~

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- ~~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}~~63A-3-301, as last amended by Laws of Utah ~~{2016}~~2019, ~~{Chapters 129 and 298}~~Chapter 84

~~{63A-3-502}~~63A-3-302, as last amended by Laws of Utah ~~{2017}~~2019, ~~{Chapters 56 and 304}~~Chapter 84

~~{63A-3-506}~~63A-3-307, as ~~{renumbered and}~~last amended by Laws of Utah ~~{2011}~~2019, Chapter ~~{79}~~84

63A-3-310, as last amended by Laws of Utah 2019, Chapter 84

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

Section 1. Section 63A-3-301 is amended to read:

63A-3-301. Definitions.

As used in this part:

(1) "Account receivable" or "receivable" means any amount due the state or any other governmental entity within the state as a result of a judgment, citation, tax, or administrative order, or for which materials or services have been provided but for which payment has not been received by the servicing unit.

(2) "Debtor" means a party that owes, or is alleged to owe, an account receivable.

~~{(3)}~~(3) "Division" means the Division of Finance, created in Section 63A-3-101.

(4) "Local agency" means a nonprofit entity organized by participating political subdivisions to act on behalf of the participating political subdivisions with respect to the

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office's efforts to collect accounts receivable of participating political subdivisions through administrative offsets.

(3) (5) "Mail" means United States Postal Service first class mail to the intended recipient's last known address.

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

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

Section 2. Section 63A-3-302 is amended to read:

63A-3-302. Unpaid accounts receivable ~~{due the state}~~-- Political subdivision agreement with local agency.

(1) If any account receivable at any point has been unpaid for 90 days or more, any agency or other authority of the state, or any political subdivision~~[, as defined in Section 63G-7-102, of the state]~~ responsible for collection of the account may proceed under this part to collect the delinquent amount.

(2) (a) A political subdivision may enter into an agreement with a local agency under which the local agency, for a reasonable fee that the political subdivision and local agency agree upon, prepares and submits the political subdivision's accounts receivable for collection as provided in this part.

(b) Notwithstanding an agreement under Subsection (2)(a), a participating political subdivision shall:

(i) establish an agreement with the division for submitting delinquent accounts receivable under this part; and

(ii) with respect to the accounts receivable that the participating political subdivision submits through a local agency for collection under this part:

(A) receive and respond to an administrative hearing requested under Section 63A-3-305; and

(B) administer an adjudicative proceeding required under Section 63A-3-306.

Section 3. Section 63A-3-307 is amended to read:

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63A-3-307. Liens.

(1) The following shall constitute a lien in the amount of the receivable plus interest, penalties, and collection costs allowed by law against any state income tax overpayment or refund due or to become due the debtor:

(a) a judgment, citation, or administrative order issued by any agency, court, or other authority of the state, or by any political subdivision ~~[, as defined in Section 63G-7-102];~~ or

(b) an amount, that has at any point been unpaid for 90 days or more, due the state or other governmental entity for which materials or services have been provided but for which payment has not been received by the servicing unit.

(2) The lien created by this section shall, for the purposes of Section 59-10-529 only, be considered a judgment.

Section 4. Section 63A-3-310 is amended to read:

63A-3-310. Rules for implementing part.

The ~~[Division of Finance]~~ division may adopt rules for the implementation of this part, including rules for the conduct of hearings, injured spouse claims, and appointment of hearing examiners.

~~{ Section 1. Section 63A-3-501 is amended to read:~~

~~63A-3-501. Definitions.~~

~~As used in this part:~~

~~(1) (a) "Accounts receivable" or "receivables" means any amount due to a state agency or political subdivision 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 a state agency or political subdivision; 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 a state agency or political subdivision.~~

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

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

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

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

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

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

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

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

~~—— (i) an executive branch agency;~~

~~—— (ii) the legislative branch of state government; and~~

~~—— (iii) the judicial branches of state government, including justice courts:~~

~~—— (b) "State agency" does not include:~~

~~—— (i) any institution of higher education;~~

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

~~—— (iii) the administrator of the Uninsured Employers' Fund appointed by the Labor Commissioner under Section 34A-2-704, solely for the purposes of collecting money required to be deposited into the Uninsured Employers' Fund under:~~

~~—— (A) Section 34A-1-405;~~

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

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

~~—— [(9)] (11) "Writing-off" means the removal of an accounts receivable from an agency's~~

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~~accounts receivable records but does not necessarily eliminate further collection efforts.~~

~~Section 2. 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 and any rules established by the Office of State Debt Collection.~~

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

~~(3) The office shall:~~

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

~~(b) assist the Division of Finance to 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) assist the Division of Finance to develop policies, procedures, and guidelines for accounting, reporting, and collecting money owed to the state;~~

~~(e) provide information, training, and technical assistance to each state agency on various collection-related topics;~~

~~(f) write an inclusive receivables management and collection manual for use by each state agency;~~

~~(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 any state agency that is not making satisfactory progress toward implementing collection techniques and improving accounts receivable collections;~~

~~(k) coordinate information, systems, and procedures between each state agency to maximize the collection of past-due accounts receivable;~~

~~(l) establish an automated cash receipt process between each state agency;~~

~~(m) assist the Division of Finance to establish procedures for writing off accounts receivable for accounting and collection purposes;~~

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~~—— (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 or for any restitution to victims referred to the office by a court; and~~

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

~~—— (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 and databases of any state agency that are necessary to the duties of the office by following the procedures and requirements of Section 63G-2-206, including the financial disclosure form described in Section 77-38a-204;~~

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

~~—— (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~~

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receivable for which no court judgment has been entered; and

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

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

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

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

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

~~—— (l) notwithstanding Section 63G-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;~~

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

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

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

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

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

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

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

~~—— (5) The office shall ensure that:~~

~~—— (a) a record obtained by the office or a private sector vendor as referred to in Subsection (4)(1):~~

~~—— (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)(1) 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 a court as a result of prosecution for a criminal offense that have been transferred to the office under Section 77-32a-102.~~

~~—— (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 a state agency 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 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 the management and collection of receivables as a supplement to statewide training;~~

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

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

~~—— (b) are not compensation for actual pecuniary loss.~~

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

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

~~—— (ii) The office shall include the fee under Subsection (9)(b)(i) in the amount for which the office seeks recovery through an administrative offset and shall remit to the local agency all fees that the office recovers.~~

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

~~—— **63A-3-506. Allocation of funds.**~~

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

~~—— (2) Notwithstanding the requirements of Subsection (1):~~

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

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

‡