

DEPARTMENT OF GOVERNMENT OPERATIONS REVISIONS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Stephanie Gricius

Senate Sponsor: John D. Johnson

LONG TITLE

Committee Note:

The Government Operations Interim Committee recommended this bill.

Legislative Vote: 12 voting for 0 voting against 4 absent

General Description:

This bill amends provisions related to the Division of Finance and the Division of Purchasing and General Services.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ removes the requirement that a state agency submit a purchase request for a copy machine to the director of the Division of Purchasing and General Services;
- ▶ modifies provisions on tax refund liens and release of liens;
- ▶ modifies provisions related to the collection of interest and fees by the Office of State Debt Collection;
- ▶ modifies how funds from the Office of State Debt Collection may be used; and
- ▶ amends provisions related to wage garnishments.

Money Appropriated in this Bill:

None

Other Special Clauses:

None



28 **Utah Code Sections Affected:**

29 AMENDS:

- 30 **63A-2-105**, as last amended by Laws of Utah 2015, Chapter 98
- 31 **63A-3-203**, as last amended by Laws of Utah 2022, Chapter 169
- 32 **63A-3-301**, as last amended by Laws of Utah 2020, Chapter 297
- 33 **63A-3-303**, as last amended by Laws of Utah 2019, Chapter 84
- 34 **63A-3-304**, as last amended by Laws of Utah 2019, Chapter 84
- 35 **63A-3-305**, as last amended by Laws of Utah 2019, Chapter 84
- 36 **63A-3-306**, as last amended by Laws of Utah 2019, Chapter 84
- 37 **63A-3-307**, as last amended by Laws of Utah 2020, Chapter 297
- 38 **63A-3-308**, as last amended by Laws of Utah 2019, Chapter 84
- 39 **63A-3-502**, as last amended by Laws of Utah 2023, Chapter 113
- 40 **63A-3-505**, as last amended by Laws of Utah 2021, Chapter 260
- 41 **63A-3-507**, as last amended by Laws of Utah 2021, Chapters 145, 260
- 42 **78A-2-214**, as last amended by Laws of Utah 2021, Chapter 260

43 ENACTS:

44 **63A-3-202.1**, Utah Code Annotated 1953

45 RENUMBERS AND AMENDS:

46 **63A-3-202.5**, (Renumbered from 63A-3-202, as renumbered and amended by Laws of
47 Utah 1993, Chapter 212)



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

50 Section 1. Section **63A-2-105** is amended to read:

51 **63A-2-105. Director to approve certain purchases.**

52 (1) A state agency that intends to purchase any mail-related equipment [~~or copy~~
53 ~~machine~~] shall submit a purchase request to the purchasing director.

54 (2) The purchasing director shall review a request under Subsection (1) to ensure that:

55 (a) the authority to perform those functions has been appropriately delegated to the
56 state agency under this part;

57 (b) the equipment meets proper specifications; and

58 (c) the benefits from the state agency's purchase of the equipment outweigh the benefits

59 of having the same functions performed by the division.

60 Section 2. Section **63A-3-202.1** is enacted to read:

61 **63A-3-202.1. Definitions.**

62 As used in this part, "accounting system" means:

63 (1) a system that integrates into the state's general ledger accounting system;

64 (2) a system used to summarize information that is manually entered into the state's
65 general ledger accounting system;

66 (3) a system used to collect and maintain:

67 (a) detailed financial information on each individual transaction or event; or

68 (b) information used to present the funds and activities of the state;

69 (4) a system used to determine and demonstrate financial compliance with legal,
70 federal, audit, and contractual provisions; or

71 (5) a system similar to a system described in Subsections (1) through (4).

72 Section 3. Section **63A-3-202.5**, which is renumbered from Section 63A-3-202 is
73 renumbered and amended to read:

74 **[63A-3-202]. 63A-3-202.5. Comprehensive state accounting system --**
75 **Approval of agency accounting systems -- Cost accounting systems required.**

76 (1) The director of the Division of Finance shall establish a comprehensive state
77 accounting system.

78 (2) Officers, departments, agencies, and institutions of Utah may create and maintain
79 accounting systems only with the approval of the director.

80 (3) The director may, with the approval of the executive director, require any
81 department or institution to install and maintain a cost accounting system that will disclose the
82 unit cost of material or service produced or performed by a department.

83 Section 4. Section **63A-3-203** is amended to read:

84 **63A-3-203. Accounting control over state departments and agencies --**
85 **Prescription and approval of financial forms and accounting systems.**

86 (1) The director of the Division of Finance shall:

87 (a) exercise accounting control over all state departments and agencies except
88 institutions of higher education; and

89 (b) prescribe the manner and method of certifying that funds are available and adequate

90 to meet all contracts and obligations.

91 (2) The director shall audit all claims against the state for which an appropriation is
92 made.

93 (3) (a) The director shall prescribe:

94 (i) all forms of requisitions, receipts, vouchers, bills, or claims to be used by all state
95 departments and agencies; and

96 (ii) all forms to be used by the division.

97 (b) Before approving the forms in Subsection (3)(a), the director shall obtain approval
98 from the state auditor that the forms will adequately facilitate the post-audit of public accounts.

99 (4) Before implementation by any state agency, the director of the Division of Finance
100 shall review and approve any accounting system developed by a state agency.

101 (5) If a state agency does not obtain the approval described in Subsection (4), the
102 director may:

103 (a) require the state agency to cease all development activity related to the accounting
104 system; and

105 (b) (i) establish conditions of future development of the accounting system; or

106 (ii) deny implementation of the accounting system.

107 Section 5. Section **63A-3-301** is amended to read:

108 **63A-3-301. Definitions.**

109 As used in this part:

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

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

115 (3) "Division" means the Division of Finance, created in Section [63A-3-101](#).

116 (4) "Lien" means the lien described in Section [63A-3-307](#).

117 [~~4~~] (5) "Local agency" means a nonprofit entity organized by participating political
118 subdivisions to act on behalf of the participating political subdivisions with respect to the
119 office's efforts to collect accounts receivable of participating political subdivisions through
120 administrative offsets.

121 ~~[(5)]~~ (6) "Mail" means United States Postal Service first class mail to the intended
122 recipient's last known address.

123 ~~[(6)]~~ (7) "Participating political subdivision" means a political subdivision that has
124 entered into an agreement with a local agency authorizing the local agency to act on behalf of
125 the political subdivision with respect to the office's efforts to collect accounts receivable of the
126 political subdivision through administrative offsets.

127 ~~[(7)]~~ (8) "Political subdivision" means the same as that term is defined in Section
128 [63G-7-102](#).

129 Section 6. Section **63A-3-303** is amended to read:

130 **63A-3-303. Notice to debtor -- Contents -- Joint filers.**

131 (1) ~~[When]~~ For each instance when the state or any other governmental entity executes,
132 or intends to execute, on a lien created by Section [63A-3-307](#), the state or entity to which the
133 receivable is owed shall send a notice by mail to the debtor at the debtor's last-known address.

134 (2) The notice required by Subsection (1) shall contain:

135 (a) the date and amount of the receivable;

136 (b) a demand for immediate payment of the amount;

137 (c) a statement of the right of the debtor to file a written response to the notice, to
138 request a hearing within 21 days of the date of the notice, to be represented at the hearing, and
139 to appeal any decision of the hearing examiner;

140 (d) the time within which a written response must be received from the debtor;

141 (e) a statement notifying the debtor that the state may obtain an order and execute upon
142 income tax overpayments or refunds of the debtor if:

143 (i) the debtor fails to timely respond to the notice; or

144 (ii) a hearing is held and the hearing officer decides against the debtor; ~~[and]~~

145 (f) the address to which the debtor may send a written request for a hearing~~[-];~~ and

146 (g) the amount of the tax overpayment, refund, or other funds subject to a lien under
147 this part, on which the state or governmental entity executes or intends to execute the lien.

148 (3) Notwithstanding Subsection (1), if the Office of State Debt Collection has agreed to
149 collect a receivable, the Office of State Debt Collection may send the notice required by
150 Subsection (1) instead of the entity to which the receivable is owed.

151 (4) Unless otherwise prohibited by law, the state or other governmental entity shall also

152 ~~send the notice required [by] under this section [shall also be sent to any individuals that are~~
153 ~~joint filers]~~ to each individual who is a joint filer with a debtor of an affected tax filing, if the
154 state [agency] or other governmental entity attempting to levy a debtor's tax overpayment [or],
155 refund, or other funds subject to a lien under this part is aware of the joint filer.

156 Section 7. Section **63A-3-304** is amended to read:

157 **63A-3-304. Effect of nonpayment or failure to respond.**

158 (1) If a written request for a hearing~~[, or payment of delinquent receivable,]~~ is not
159 received by the state or other governmental entity within 21 days ~~[from]~~ after the date of the
160 notice required by Section **63A-3-303**, the debtor is in default and the state or other
161 governmental entity ~~[may]~~:

162 ~~[(1)]~~ (a) may levy the debtor's income tax overpayment [or], refund, or other funds
163 subject to a lien under this part, that is specified in the notice, up to the amount of the
164 receivable, plus interest, penalties, and collection costs allowed by law, to apply to the
165 receivable specified in the notice; and

166 ~~[(2)]~~ (b) ~~[collect the balance, including as provided in Section **63A-3-307**]~~ is not
167 required to return to the debtor the income tax overpayment, refund, or other funds subject to a
168 lien under which the state or other governmental entity levies.

169 (2) If a debtor pays a delinquent receivable in full before the state or other
170 governmental entity applies to the delinquent receivable an amount levied under this part, the
171 state or other governmental entity shall release the levied amount to the debtor, if the levied
172 amount is being held due to a lien created under Section **63A-3-307**.

173 Section 8. Section **63A-3-305** is amended to read:

174 **63A-3-305. Hearing requested -- Notice to debtor.**

175 (1) If a written response is received by the state or other governmental entity within 21
176 days from the date of the notice required by Section **63A-3-303** and a hearing is requested in
177 the written response, the state or other governmental entity shall:

178 (a) set a hearing date within 28 days of the receipt of the response; and

179 (b) mail written notice of the hearing to the debtor at least 14 days before the date of
180 the hearing.

181 (2) (a) Notwithstanding Subsection (1), the state or other governmental entity is not
182 required to set a hearing if the state or governmental entity releases its lien.

183 (b) The state or other governmental entity may release a lien on a specific tax
184 overpayment, a specific refund, or a specific amount of funds, without the release affecting
185 subsequent or previous levies or liens under this part.

186 (c) Each instance the state or other governmental entity, in response to a written request
187 for a hearing from a debtor, releases a lien under this section, the state or other governmental
188 entity releasing the lien shall, within a reasonable amount of time, send written notice to the
189 debtor indicating that the lien has been released and to which year or years the release applies.

190 (3) A written request for hearing received under this part is a request for agency action
191 under Title 63G, Chapter 4, Administrative Procedures Act.

192 (4) This part does not prevent a debtor from challenging a debt through other lawful
193 means that may be available to a debtor.

194 (5) A written request under this part is the sole manner to dispute a levy under this part.

195 Section 9. Section **63A-3-306** is amended to read:

196 **63A-3-306. Hearing examiner -- Procedures -- Adjudicative proceedings.**

197 (1) (a) A hearing requested under this part shall be held before a hearing examiner
198 designated by the state or other governmental entity setting the hearing.

199 (b) The hearing examiner may not be an officer or employee of the entity in state
200 government responsible for collecting or administering the account.

201 (2) The state or other governmental entity shall comply with the procedures and
202 requirements of Title 63G, Chapter 4, Administrative Procedures Act, in its adjudicative
203 proceedings.

204 (3) If a hearing examiner determines a receivable is owed, in whole or in part:

205 (a) the state or other governmental entity may levy the debtor's income tax
206 overpayment [or], refund, or other funds subject to a lien under this part, as specified in the
207 notice to the debtor, up to the amount of the receivable determined to be owed, plus interest,
208 penalties, and collection costs allowed by law and collect the balance, including as provided in
209 Section 63A-3-307; and

210 (b) the state or other governmental entity may charge the debtor reasonable, actual
211 collection costs for amounts charged by the hearing examiner for the debtor's hearing.

212 Section 10. Section **63A-3-307** is amended to read:

213 **63A-3-307. Liens.**

214 (1) The following shall constitute a lien in the amount of the receivable plus interest,
215 penalties, and collection costs allowed by law against any state income tax overpayment [or],
216 refund, or other funds in possession of the state or other governmental entity, that are due or to
217 become due the debtor:

218 (a) a judgment, citation, tax, or administrative order issued by any agency, court, or
219 other authority of the state, or by any political subdivision; [or]

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

223 (c) an amount, that:

224 (i) the debtor is statutorily required to pay to the state or other governmental entity; and

225 (ii) has, at any point, been unpaid for at least 90 days.

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

228 (3) Nothing under Title 63G, Chapter 7, Part 6, Legal Actions Under this Chapter -
229 Procedures, Requirements, Damages, and Limitations on Judgments, prohibits the state or
230 other governmental entity from executing on a lien under this section.

231 Section 11. Section 63A-3-308 is amended to read:

232 **63A-3-308. Judicial review -- Effect on lien.**

233 (1) Agency and judicial review of decisions from hearings conducted under this part
234 are subject to review in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

235 (2) The state or other governmental entity may retain in its possession a debtor's tax
236 overpayment [or], refund, or other funds subject to a lien under this part, while a decision from
237 a hearing conducted under this part is being reviewed by an agency, court, or other authority of
238 the state pursuant to Title 63G, Chapter 4, Administrative Procedures Act.

239 Section 12. Section 63A-3-502 is amended to read:

240 **63A-3-502. Office of State Debt Collection created -- Duties.**

241 (1) The state and each state agency shall comply with:

242 (a) the requirements of this chapter; and

243 (b) any rules established by the Office of State Debt Collection.

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

- 245 (3) The office shall:
- 246 (a) have overall responsibility for collecting and managing state receivables;
- 247 (b) assist the Division of Finance to develop consistent policies governing the
248 collection and management of state receivables;
- 249 (c) oversee and monitor state receivables to ensure that state agencies are:
- 250 (i) implementing all appropriate collection methods;
- 251 (ii) following established receivables guidelines; and
- 252 (iii) accounting for and reporting receivables in the appropriate manner;
- 253 (d) assist the Division of Finance to develop policies, procedures, and guidelines for
254 accounting, reporting, and collecting money owed to the state;
- 255 (e) provide information, training, and technical assistance to each state agency on
256 various collection-related topics;
- 257 (f) write an inclusive receivables management and collection manual for use by each
258 state agency;
- 259 (g) prepare quarterly and annual reports of the state's receivables;
- 260 (h) create or coordinate a state accounts receivable database;
- 261 (i) develop reasonable criteria to gauge state agencies' efforts in maintaining an
262 effective accounts receivable program;
- 263 (j) identify any state agency that is not making satisfactory progress toward
264 implementing collection techniques and improving accounts receivable collections;
- 265 (k) coordinate information, systems, and procedures between each state agency to
266 maximize the collection of past-due accounts receivable;
- 267 (l) establish an automated cash receipt process between each state agency;
- 268 (m) assist the Division of Finance to establish procedures for writing off accounts
269 receivable for accounting and collection purposes;
- 270 (n) establish standard time limits after which an agency will delegate responsibility to
271 collect state receivables to the office or the office's designee;
- 272 (o) be a real party in interest for:
- 273 (i) an account receivable referred to the office by any state agency; and
- 274 (ii) a civil judgment of restitution entered on a civil judgment docket by a court;
- 275 (p) allocate money collected for a judgment entered on the civil judgment docket under

276 Section 77-18-114 in accordance with Sections 51-9-402, 63A-3-506, and 78A-5-110;
277 (q) if a criminal accounts receivable is transferred to the office under Subsection
278 77-32b-103(2)(a)(ii), receive, process, and distribute payments for the criminal accounts
279 receivable;

280 (r) provide a debtor online access to the debtor's accounts receivable or criminal
281 accounts receivable in accordance with Section 63A-3-502.5;

282 (s) establish a written policy for each of the following:

283 (i) the settling of an accounts receivable, including any amount of restitution owed to a
284 victim in a civil judgment of restitution if the victim approves of the settlement;

285 (ii) allowing a debtor to pay off a single debt as part of an accounts receivable even if
286 the debtor has a balance on another debt as part of an accounts receivable or criminal accounts
287 receivable;

288 (iii) setting a payment deadline for settlement agreements and for obtaining an
289 extension of a settlement agreement deadline; and

290 (iv) reducing administrative costs when a settlement has been reached;

291 (t) consult with a state agency on whether:

292 (i) the office may agree to a settlement for an amount that is less than the debtor's
293 principal amount; and

294 (ii) the state agency may retain authority to negotiate a settlement with a debtor; and

295 (u) provide the terms and conditions of any payment arrangement that the debtor has
296 made with a state agency or the office when:

297 (i) the payment arrangement is created; or

298 (ii) the debtor requests a copy of the terms and conditions.

299 (4) The office may:

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

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

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

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

306 (ii) identify improvements needed to further enhance the state's effectiveness in

307 collecting the state's receivables;

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

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

311 (f) obtain access to records and databases of any state agency that are necessary to the
312 duties of the office by following the procedures and requirements of Section 63G-2-206,
313 including the financial declaration form described in Section 77-38b-204;

314 (g) at rates authorized by the Legislature or set in statute, assess and collect the
315 following interest and fees [related to the collection of receivables under this chapter, and
316 establish, by following the procedures and requirements of Section 63J-1-504]:

317 (i) a fee to cover the administrative costs of collection on accounts administered by the
318 office;

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

321 (iii) an interest charge that is:

322 (A) the postjudgment interest rate established by Section 15-1-4 in judgments
323 established by the courts; or

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

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

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

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

331 (j) for a case that is referred to the office or in which the office is a judgment creditor,
332 file a motion or other document related to the office or the accounts receivable in that case,
333 including a satisfaction of judgment, in accordance with the Utah Rules of Civil Procedure;

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

336 (l) notwithstanding Section 63G-2-206, share records obtained under Subsection (4)(f)
337 with private sector vendors under contract with the state to assist state agencies in collecting

338 debts owed to the state agencies without changing the classification of any private, controlled,
339 or protected record into a public record;

340 (m) enter into written agreements with other governmental agencies to obtain and share
341 information for the purpose of collecting state accounts receivable; and

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

346 (5) The office shall ensure that:

347 (a) a record obtained by the office or a private sector vendor under Subsection (4)(l):

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

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

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

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

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

356 (6) (a) The office shall collect a civil accounts receivable or a civil judgment of
357 restitution ordered by a court as a result of prosecution for a criminal offense that have been
358 transferred to the office under Subsection 77-18-114(1) or (2).

359 (b) The office may not assess:

360 (i) the interest charge established by the office under Subsection (4) on an account
361 receivable subject to the postjudgment interest rate established by Section 15-1-4; and

362 (ii) an interest charge on a criminal accounts receivable that is transferred to the office
363 under Subsection 77-32b-103(2)(a)(ii).

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

365 (a) transfer collection responsibilities to the office or the office's designee according to
366 time limits established by the office;

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

- 369 (c) use the state's accounts receivable system or develop systems that are adequate to
370 properly account for and report the state's receivables;
- 371 (d) develop and implement internal policies and procedures that comply with the
372 collections policies and guidelines established by the office;
- 373 (e) provide internal accounts receivable training to staff involved in the management
374 and collection of receivables as a supplement to statewide training;
- 375 (f) bill for and make initial collection efforts of the state agency's receivables up to the
376 time the accounts must be transferred; and
- 377 (g) submit quarterly receivable reports to the office that identify the age, collection
378 status, and funding source of each receivable.
- 379 (8) All interest, fees, and other amounts authorized to be collected by the office under
380 Subsection (4)(g):
- 381 (a) are penalties that may be charged by the office;
- 382 (b) do not require an order from a court for the office to assess or collect;
- 383 (c) are not compensation for actual pecuniary loss;
- 384 (d) for a civil accounts receivable:
- 385 (i) begin to accrue on the day on which the civil accounts receivable is entered on the
386 civil judgment docket under Subsection 77-18-114(1) or (2); and
- 387 (ii) may be collected as part of the civil accounts receivable;
- 388 (e) for a civil judgment of restitution:
- 389 (i) begin to accrue on the day on which the civil judgment of restitution is entered on
390 the civil judgment docket under Subsection 77-18-114(1); and
- 391 (ii) may be collected as part of the civil judgment of restitution;
- 392 (f) for all other accounts receivable:
- 393 (i) begin to accrue on the day on which the accounts receivable is transferred to the
394 office, even if there is no court order on the day on which the accounts receivable is
395 transferred; and
- 396 (ii) may be collected as part of the accounts receivable; and
- 397 (g) may be waived by:
- 398 (i) the office; or
- 399 (ii) if the interest, fee, or other amount is charged in error, the court.

400 Section 13. Section **63A-3-505** is amended to read:

401 **63A-3-505. State Debt Collection Fund.**

402 (1) There is created an expendable special revenue fund entitled the "State Debt
403 Collection Fund."

404 (2) The fund consists of:

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

406 (b) fees and interest [~~established by the office under~~] described in Subsection
407 **63A-3-502**(4)(g); and

408 (c) except as otherwise provided by law, all postjudgment interest collected by the
409 office or the state, except postjudgment interest on a civil judgment of restitution.

410 (3) Money in this fund shall be overseen by the office and may be used to pay for:

411 (a) the costs of the office in the performance of the office's duties [~~under this chapter~~];

412 (b) a civil judgment of restitution for which debt is owed;

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

414 (d) principal on the debt to the state agencies or other entities that placed the receivable
415 for collection; [~~and~~]

416 (e) other legal obligations including those ordered by a court[-]; and

417 (f) deputy court clerks who work exclusively on debt collection activities.

418 (4) (a) The fund may collect interest.

419 (b) All interest earned from the fund shall be deposited [~~in~~] into the General Fund.

420 (5) The office shall ensure that money remaining in the fund at the end of the fiscal
421 year that is not committed under the priorities established under Subsection (3) is deposited
422 into the General Fund.

423 Section 14. Section **63A-3-507** is amended to read:

424 **63A-3-507. Administrative garnishment order.**

425 (1) Subject to Subsection (2), if a judgment is entered against a debtor, the office may
426 issue an administrative garnishment order against the debtor's personal property, including
427 wages, in the possession of a party other than the debtor in the same manner and with the same
428 effect as if the order was a writ of garnishment issued by a court with jurisdiction.

429 (2) The office may issue the administrative garnishment order if:

430 (a) the order is signed by the director or the director's designee; and

- 431 (b) the underlying debt is for:
- 432 (i) nonpayment of a civil accounts receivable or a civil judgment of restitution; or
- 433 (ii) nonpayment of a judgment, or abstract of judgment or award filed with a court,
- 434 based on an administrative order for payment issued by an agency of the state.
- 435 (3) An administrative garnishment order issued in accordance with this section is
- 436 subject to the procedures and due process protections provided by Rule 64D, Utah Rules of
- 437 Civil Procedure, except as provided by Section [70C-7-103](#).
- 438 (4) An administrative garnishment order issued by the office shall:
- 439 (a) contain a statement that includes:
- 440 (i) if known:
- 441 (A) the nature, location, account number, and estimated value of the property; and
- 442 (B) the name, address, and phone number of the person holding the property;
- 443 (ii) whether any of the property consists of earnings;
- 444 (iii) the amount of the judgment and the amount due on the judgment; and
- 445 (iv) the name, address, and phone number of any person known to the plaintiff to claim
- 446 an interest in the property;
- 447 (b) identify the defendant, including the defendant's name and last known address;
- 448 (c) notify the defendant of the defendant's right to reply to answers and request a
- 449 hearing as provided by Rule 64D, Utah Rules of Civil Procedure; and
- 450 (d) state where the garnishee may deliver property.
- 451 (5) The office may, in the office's discretion, include in an administrative garnishment
- 452 order:
- 453 (a) the last four digits of the defendant's Social Security number;
- 454 (b) the last four digits of the defendant's driver license number;
- 455 (c) the state in which the defendant's driver license was issued;
- 456 (d) one or more interrogatories inquiring:
- 457 (i) whether the garnishee is indebted to the defendant and, if so, the nature of the
- 458 indebtedness;
- 459 (ii) whether the garnishee possesses or controls any property of the defendant and, if
- 460 so, the nature, location, and estimated value of the property;
- 461 (iii) whether the garnishee knows of any property of the defendant in the possession or

462 under the control of another and, if so:

463 (A) the nature, location, and estimated value of the property; and

464 (B) the name, address, and telephone number of the person who has possession or
465 control of the property;

466 (iv) whether the garnishee is deducting a liquidated amount in satisfaction of a claim
467 against the plaintiff or the defendant, whether the claim is against the plaintiff or the defendant,
468 and the amount deducted;

469 (v) the date and manner of the garnishee's service of papers upon the defendant and any
470 third party;

471 (vi) the dates on which any previously served writs of continuing garnishment were
472 served; and

473 (vii) any other relevant information, including the defendant's position, rate of pay,
474 method of compensation, pay period, and computation of the amount of the defendant's
475 disposable earnings.

476 (6) (a) A garnishee who acts in accordance with this section and the administrative
477 garnishment issued by the office is released from liability unless an answer to an interrogatory
478 is successfully controverted.

479 (b) Except as provided in Subsection (6)(c), if the garnishee fails to comply with an
480 administrative garnishment issued by the office without a court or final administrative order
481 directing otherwise, the garnishee is liable to the office for an amount determined by the court.

482 (c) The amount for which a garnishee is liable under Subsection (6)(b) includes:

483 (i) (A) the value of the judgment; or

484 (B) the value of the property, if the garnishee shows that the value of the property is
485 less than the value of the judgment;

486 (ii) reasonable costs; and

487 (iii) attorney fees incurred by the parties as a result of the garnishee's failure.

488 (d) If the garnishee shows that the steps taken to secure the property were reasonable,
489 the court may excuse the garnishee's liability in whole or in part.

490 (7) (a) If the office has reason to believe that a garnishee has failed to comply with the
491 requirements of this section in the garnishee's response to a garnishment order issued under this
492 section, the office may submit a motion to the court requesting the court to issue an order

493 against the garnishee requiring the garnishee to appear and show cause why the garnishee
494 should not be held liable under this section.

495 (b) The office shall attach to a motion under Subsection (7)(a) a statement that the
496 office has in good faith conferred or attempted to confer with the garnishee in an effort to settle
497 the issue without court action.

498 (8) A person is not liable as a garnishee for drawing, accepting, making, or endorsing a
499 negotiable instrument if the instrument is not in the possession or control of the garnishee at
500 the time of service of the administrative garnishment order.

501 (9) (a) A person indebted to the defendant may pay to the office the amount of the debt
502 or an amount to satisfy the administrative garnishment.

503 (b) The office's receipt of an amount described in Subsection (9)(a) discharges the
504 debtor for the amount paid.

505 (10) A garnishee may deduct from the property any liquidated claim against the
506 defendant.

507 (11) (a) If a debt to the garnishee is secured by property, the office:

508 (i) is not required to apply the property to the debt when the office issues the
509 administrative garnishment order; and

510 (ii) may obtain a court order authorizing the office to buy the debt and requiring the
511 garnishee to deliver the property.

512 (b) Notwithstanding Subsection (11)(a)(i):

513 (i) the administrative garnishment order remains in effect; and

514 (ii) the office may apply the property to the debt.

515 (c) The office or a third party may perform an obligation of the defendant and require
516 the garnishee to deliver the property upon completion of performance or, if performance is
517 refused, upon tender of performance if:

518 (i) the obligation is secured by property; and

519 (ii) (A) the obligation does not require the personal performance of the defendant; and

520 (B) a third party may perform the obligation.

521 (12) (a) The office may issue a continuing garnishment order against a nonexempt
522 periodic payment.

523 (b) This section is subject to the Utah Exemptions Act.

524 (c) A continuing garnishment order issued in accordance with this section applies to
525 payments to, or for the benefit of, the defendant from the date of service upon the garnishee
526 until the earliest of the following:

527 (i) the last periodic payment;

528 (ii) the judgment upon which the administrative garnishment order is issued is stayed,
529 vacated, or satisfied in full; or

530 (iii) the office releases the order.

531 (d) No later than seven days after the last day of each payment period, the garnishee
532 shall with respect to that period:

533 (i) answer each interrogatory;

534 (ii) serve an answer to each interrogatory on the office, the defendant, and any other
535 person who has a recorded interest in the property; and

536 (iii) deliver the property to the office.

537 (e) If the office issues a continuing garnishment order during the term of a writ of
538 continuing garnishment issued by the district court, the order issued by the office:

539 (i) is tolled when a writ of garnishment or other income withholding is already in effect
540 and is withholding greater than or equal to the maximum portion of disposable earnings
541 described in Subsection (13);

542 (ii) is collected in the amount of the difference between the maximum portion of
543 disposable earnings described in Subsection (13) and the amount being garnished by an
544 existing writ of continuing garnishment if the maximum portion of disposable earnings exceed
545 the existing writ of garnishment or other income withholding; and

546 (iii) shall take priority upon the termination of the current term of existing writs.

547 (13) The maximum portion of disposable earnings of an individual subject to seizure in
548 accordance with this section is the lesser of:

549 (a) 25% of the defendant's disposable earnings for any other judgment; or

550 (b) the amount by which the defendant's disposable earnings for a pay period exceeds
551 the number of weeks in that pay period multiplied by 30 times the federal minimum wage as
552 provided in 29 U.S.C. Sec. 201 et seq., Fair Labor Standards Act of 1938.

553 (14) (a) In accordance with the requirements of this Subsection (14), the office may, at
554 its discretion, determine a dollar amount that a garnishee is to withhold from earnings and

555 deliver to the office in a continuing administrative garnishment order issued under this section.

556 (b) The office may determine the dollar amount that a garnishee is to withhold from
557 earnings under Subsection (14)(a) if the dollar amount determined by the office:

558 (i) does not exceed the maximum amount allowed under Subsection (13); and

559 (ii) is based on:

560 (A) earnings information received by the office directly from the Utah Department of
561 Workforce Services; or

562 (B) previous garnishments issued to the garnishee by the office where payments were
563 received at a consistent dollar amount.

564 (c) The earnings information or previous garnishments relied on by the office under
565 Subsection (14)(b)(ii) to calculate a dollar amount under this Subsection (14) shall be:

566 (i) for one debtor;

567 (ii) from the same employer;

568 (iii) for two or more consecutive quarters; and

569 (iv) received within the last six months.

570 (15) (a) A garnishee who provides the calculation for withholdings on a defendant's
571 wages in the garnishee's initial response to an interrogatory in an administrative garnishment
572 order under this section is not required to provide the calculation for withholdings after the
573 garnishee's initial response if:

574 (i) the garnishee's accounting system automates the amount of defendant's wages to be
575 paid under the garnishment; and

576 (ii) the defendant's wages do not vary by more than five percent from the amount
577 disclosed in the garnishee's initial response.

578 (b) Notwithstanding Subsection (15)(a), upon request by the office or the defendant, a
579 garnishee shall provide, for the last pay period or other pay period specified by the office or
580 defendant, a calculation of the defendant's wages and withholdings and the amount garnished.

581 (16) (a) A garnishee under an administrative garnishment order under this section is
582 entitled to receive a garnishee fee, as provided in this Subsection (16), in the amount of:

583 (i) \$10 per garnishment order, for a noncontinuing garnishment order; and

584 (ii) \$25, as a one-time fee, for a continuing garnishment order.

585 (b) A garnishee may deduct the amount of the garnishee fee from the amount to be

586 remitted to the office under the administrative garnishment order, if the amount to be remitted
587 exceeds the amount of the fee.

588 (c) If the amount to be remitted to the office under an administrative garnishment order
589 does not exceed the amount of the garnishee fee:

590 (i) the garnishee shall notify the office that the amount to be remitted does not exceed
591 the amount of the garnishee fee; and

592 (ii) (A) the garnishee under a noncontinuing garnishment order shall return the
593 administrative garnishment order to the office, and the office shall pay the garnishee the
594 garnishee fee; or

595 (B) the garnishee under a continuing garnishment order shall delay remitting to the
596 office until the amount to be remitted exceeds the garnishee fee.

597 (d) If, upon receiving the administrative garnishment order, the garnishee does not
598 possess or control any property, including money or wages, in which the defendant has an
599 interest:

600 (i) the garnishee under a continuing or noncontinuing garnishment order shall, except
601 as provided in Subsection (16)(d)(ii), return the administrative garnishment order to the office,
602 and the office shall pay the garnishee the applicable garnishee fee; or

603 (ii) if the garnishee under a continuing garnishment order believes that the garnishee
604 will, within 90 days after issuance of the continuing garnishment order, come into possession
605 or control of property in which the defendant owns an interest, the garnishee may retain the
606 garnishment order and deduct the garnishee fee for a continuing garnishment once the amount
607 to be remitted exceeds the garnishee fee.

608 (17) Section [78A-2-216](#) does not apply to an administrative garnishment order issued
609 under this section.

610 (18) An administrative garnishment instituted in accordance with this section shall
611 continue to operate and require that a person withhold the nonexempt portion of earnings at
612 each succeeding earning disbursement interval until the total amount due in the garnishment is
613 withheld or the garnishment is released in writing by the court or office.

614 (19) If the office issues an administrative garnishment order under this section to
615 collect an amount owed on a civil accounts receivable or a civil judgment of restitution, the
616 administrative garnishment order shall be construed as a continuation of the criminal action for

617 which the civil accounts receivable or civil judgment of restitution arises if the amount owed is
618 from a fine, fee, or restitution for the criminal action.

619 Section 15. Section **78A-2-214** is amended to read:

620 **78A-2-214. Collection of accounts receivable.**

621 (1) As used in this section:

622 (a) "Accounts receivable" means any amount due the state from an entity for which
623 payment has not been received by the state agency that is servicing the debt.

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

627 (2) If a defendant is sentenced before July 1, 2021, and the Department of Corrections,
628 or the Office of State Debt Collection, is not responsible for collecting an accounts receivable
629 for the defendant, the district court shall collect the accounts receivable for the defendant.

630 (3) (a) In the juvenile court, money collected by the court from past-due accounts
631 receivable may be used to offset system, administrative, legal, and other costs of collection.

632 (b) The juvenile court shall allocate money collected above the cost of collection on a
633 pro rata basis to the various revenue types that generated the accounts receivable.

634 (4) The interest charge [~~established by the Office of State Debt Collection under~~
635 described in Subsection [63A-3-502\(4\)\(g\)\(iii\)](#)] may not be assessed on an account receivable
636 subject to the postjudgment interest rate established by Section [15-1-4](#).

637 Section 16. **Effective date.**

638 This bill takes effect on May 1, 2024.