

Senate Bill 883

Sponsored by COMMITTEE ON FINANCE AND REVENUE

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Allows Department of Revenue and financial institutions to enter into agreements to operate data match system under which financial institutions will provide information to department about persons who maintain account at institution and owe debt to state agency or county. Allows collection of fee.

A BILL FOR AN ACT

1
2 Relating to debt collection; creating new provisions; and amending ORS 293.227 and 293.231.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1.** ORS 293.227 is amended to read:

5 293.227. As used in ORS 293.227 to 293.233, unless the context requires otherwise:

6 (1) **“Account” means a demand deposit account, checking or negotiable withdrawal order**
7 **account, savings account, share draft account, time deposit account or money-market mu-**
8 **tual fund account.**

9 (2) **“Financial institution” means:**

10 (a) **A depository institution, as defined in section 3(c) of the Federal Deposit Insurance**
11 **Act (12 U.S.C. 1813(c));**

12 (b) **Any federal credit union or state credit union, as defined in section 101 of the Federal**
13 **Credit Union Act (12 U.S.C. 1752), including an institution-affiliated party of such a credit**
14 **union, as defined in section 206(r) of the Federal Credit Union Act (12 U.S.C. 1786(r)); and**

15 (c) **Any benefit association, insurance company, safe deposit company, money-market**
16 **mutual fund or similar entity authorized to do business in this state.**

17 [(1)] (3) **“Payment” means a voluntary amount of money paid by a debtor to a state agency or**
18 **an involuntary amount of money paid by a debtor through offset or garnishment.**

19 [(2)] (4) **“State agency” means any officer, board, commission, department, division or institution**
20 **in the executive or administrative branch of state government.**

21 **SECTION 2.** ORS 293.231 is amended to read:

22 293.231. (1) Except as provided in subsections [(4) to (9)] **(5) to (10)** of this section, a state
23 agency, unless otherwise prohibited by law, shall offer for assignment every liquidated and delin-
24 quent account to a private collection agency or to the Department of Revenue as provided in ORS
25 293.250 not later than:

26 (a) Ninety days from the date the account was liquidated if no payment has been received on
27 the account within the 90-day period; or

28 (b) Ninety days from the date of receipt of the most recent payment on the account.

29 (2) Nothing in subsection (1) of this section prohibits a state agency from offering for assignment
30 a liquidated and delinquent account to a private collection agency at any time within the 90-day

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 period.

2 (3) If, after a reasonable time, the private collection agency is unable to collect the account, the
3 private collection agency shall notify the state agency that assigned the account that it has been
4 unable to collect the account and shall relinquish the account to the state agency. A private col-
5 lection agency that collects an account under this section shall be held to the same standard of
6 confidentiality, service and courtesy imposed on the state agency that assigned the account.

7 **(4) A state agency that assigns a liquidated and delinquent account to a private collection**
8 **agency may provide the private collection agency with information on debtors obtained from**
9 **a financial institution using the data match system described in section 4 of this 2009 Act.**

10 [(4)] (5) If a state agency assigns a liquidated and delinquent account to the Department of Re-
11 venue as provided in ORS 293.250, the department shall have six months from the date of assignment
12 to collect a payment. If the department does not collect a payment within that six-month period or
13 if six months have elapsed since the date of receipt of the most recent payment on the account, the
14 department shall notify the state agency. The state agency shall then immediately offer for assign-
15 ment the debt to a private collection agency.

16 [(5)] (6) The provisions of subsection (1) of this section do not apply to a liquidated and delin-
17 quent account that is prohibited by state or federal law or regulation from assignment or collection.

18 [(6)] (7) The Oregon Department of Administrative Services may adopt rules exempting specified
19 kinds of liquidated and delinquent accounts from the time periods established in subsections (1), (2)
20 and [(4)] (5) of this section.

21 [(7)] (8) The Oregon Department of Administrative Services shall adopt rules exempting liqui-
22 dated and delinquent accounts that originate in the Department of Revenue or the Employment
23 Department from the time periods established in subsections (1), (2) and [(4)] (5) of this section.

24 [(8)] (9) A liquidated and delinquent account that is subject to assignment under this section
25 shall be assigned to a private collection agency if more than one year has elapsed without a pay-
26 ment on the account.

27 [(9)] (10) Notwithstanding subsection (1) of this section, a state agency may, at its discretion,
28 choose not to offer for assignment to a private collection agency a liquidated and delinquent account
29 that:

- 30 (a) Is secured by a consensual security interest in real or personal property;
- 31 (b) Is a court-ordered judgment that includes restitution or a payment to the Department of
32 Justice Crime Victims' Assistance Section;
- 33 (c) Is in litigation, including bankruptcy, arbitration and mediation;
- 34 (d) Is a student loan owed by a student who is attending school;
- 35 (e) Is owed to a state agency by a local or state government or by the federal government;
- 36 (f) Is owed by a debtor who is hospitalized in a state hospital as defined in ORS 162.135 or who
37 is on public assistance as defined in ORS 411.010;
- 38 (g) Is owed by a debtor who is imprisoned;
- 39 (h) Is less than \$100, including penalties; or
- 40 (i) Would result in loss of federal funding if assigned.

41 [(10)] (11) Nothing in this section prohibits a state agency from collecting a tax offset after a
42 liquidated and delinquent account is assigned to a private collection agency.

43 [(11)] (12) For the purposes of this section, a state agency shall be deemed to have offered for
44 assignment an account if:

- 45 (a) The terms of the offer are of a type generally acceptable within the collections industry for

1 the type of account offered for assignment; and

2 (b) The offer is made to a private collection agency that engages in collecting on accounts of
3 the type sought to be assigned or is made generally available to private collection agencies through
4 a bid or request for proposal process.

5 [(12)] (13) A state agency that retains a private collection agency under this section may add
6 a fee to the amount of the liquidated and delinquent account as provided in ORS 697.105. A fee may
7 not be added under this subsection unless the state agency has provided notice to the debtor:

8 (a) Of the existence of the debt;

9 (b) That the debt may be assigned to a private collection agency for collection; and

10 (c) Of the amount of the fee that may be added to the debt under this subsection.

11 [(13)] (14) Except as provided by federal law, the state agency may not add a fee under sub-
12 section [(12)] (13) of this section that exceeds the collection fee of the private collection agency.

13 **SECTION 3. Section 4 of this 2009 Act is added to and made a part of ORS 293.227 to**
14 **293.233.**

15 **SECTION 4. (1) The Department of Revenue and financial institutions doing business in**
16 **this state may enter into agreements to develop and operate a data match system using**
17 **automated data exchanges to the maximum extent feasible.**

18 (2) Pursuant to the agreements, financial institutions shall provide, for each calendar
19 quarter, the name, address, Social Security number or other taxpayer identification number
20 and other identifying information for each debtor who:

21 (a) Maintains an account at the institution; and

22 (b) Owes a debt to a state agency or to a county that has assigned the debt to the Col-
23 lections Unit in the Department of Revenue under ORS 293.250, as identified by the depart-
24 ment by name and Social Security number or other taxpayer identification number.

25 (3) The department shall pay a reasonable fee to a financial institution for conducting the
26 data match provided for in this section. The fee may not exceed the actual costs incurred
27 by the financial institution.

28 (4) The department may add to the debtor's account a reasonable fee for conducting the
29 data match provided for in this section. The fee may not exceed the actual fee paid by the
30 department to the financial institution for the data match.

31 (5) For purposes of collecting debts owed to the department, to another state agency or
32 to a county, the department may provide information on debtors obtained from a financial
33 institution using the data match system to:

34 (a) A state agency; or

35 (b) A private collection agency retained under ORS 293.231.

36 (6) A financial institution, including an institution-affiliated party as defined in section
37 3(u) of the Federal Deposit Insurance Act (12 U.S.C. 1813(u)), is not liable under any state law
38 to any person:

39 (a) For any disclosure of information to the department under this section;

40 (b) For encumbering or surrendering any assets held by the financial institution in re-
41 sponse to a notice of lien or levy issued by the department; or

42 (c) For any other action taken in good faith to comply with the requirements of this
43 section.

44 **SECTION 5. Section 4 of this 2009 Act and the amendments to ORS 293.227 and 293.231**
45 **by sections 1 and 2 of this 2009 Act apply to liquidated and delinquent accounts due prior to,**

1 **on or after the effective date of this 2009 Act.**

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