

LC 4120
4/20/11 (TR/ps)

DRAFT

SUMMARY

Deletes requirements that state agencies offer certain liquidated and delinquent accounts for assignment to private collection agency.

1 **A BILL FOR AN ACT**

2 Relating to debt collection; creating new provisions; amending ORS 1.197,
3 293.229 and 293.231; and repealing ORS 293.233.

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

5 **SECTION 1.** ORS 293.229 is amended to read:

6 293.229. (1) Not later than October 1 of each fiscal year, each state agency
7 shall submit a report to the Legislative Fiscal Office that describes the sta-
8 tus of that agency's liquidated and delinquent accounts and efforts made by
9 that agency to collect liquidated and delinquent accounts during the previous
10 fiscal year. The report required under this subsection shall be in a form
11 prescribed by the Legislative Fiscal Office and shall include but not be lim-
12 ited to:

13 (a) Beginning balance and total number of all liquidated and delinquent
14 accounts;

15 (b) New liquidated and delinquent accounts added during the last pre-
16 ceding fiscal year;

17 (c) Total collections of liquidated and delinquent accounts;

18 (d) Total amount and total number of liquidated and delinquent accounts
19 that have been written off;

20 (e) Total number and ending balance of all liquidated and delinquent ac-
21 counts; **and**

22 (f) Total amount of liquidated and delinquent accounts turned over to

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 private collection agencies and total amount collected by those agencies un-
2 der ORS 293.231[; and]

3 [(g) Total number and total amount of all liquidated and delinquent ac-
4 counts exempted under ORS 293.233].

5 (2) The Legislative Fiscal Office shall produce an annual report not later
6 than December 31 of each fiscal year on the status of liquidated and delin-
7 quent accounts of state agencies. The report shall be based on the reports
8 submitted by state agencies as required in this section.

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

10 293.231. (1) Except as provided in subsections (4) to (9) of this section, a
11 state agency, unless otherwise prohibited by law, shall offer for assignment
12 every liquidated and delinquent account to a private collection agency or to
13 the Department of Revenue as provided in ORS 293.250 not later than:

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

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

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

21 (3) If, after a reasonable time, the private collection agency is unable to
22 collect the account, the private collection agency shall notify the state
23 agency that assigned the account that it has been unable to collect the ac-
24 count and shall relinquish the account to the state agency. A private col-
25 lection agency that collects an account under this section shall be held to
26 the same standard of confidentiality, service and courtesy imposed on the
27 state agency that assigned the account.

28 (4) If a state agency assigns a liquidated and delinquent account to the
29 Department of Revenue as provided in ORS 293.250, the department shall
30 have six months from the date of assignment to collect a payment. If the
31 department does not collect a payment within that six-month period or if six

1 months have elapsed since the date of receipt of the most recent payment
2 on the account, the department shall notify the state agency. The state
3 agency [*shall then immediately*] **may** offer for assignment the debt to a pri-
4 vate collection agency.

5 (5) The provisions of subsection (1) of this section do not apply to a liq-
6 uidated and delinquent account that is prohibited by state or federal law or
7 regulation from assignment or collection.

8 (6) The Oregon Department of Administrative Services may adopt rules
9 exempting specified kinds of liquidated and delinquent accounts from the
10 time periods established in subsections (1), (2) and (4) of this section.

11 (7) The Oregon Department of Administrative Services shall adopt rules
12 exempting liquidated and delinquent accounts that originate in the Depart-
13 ment of Revenue or the Employment Department from the time periods es-
14 tablished in subsections (1), (2) and (4) of this section.

15 (8) A liquidated and delinquent account that is subject to assignment
16 under this section [*shall*] **may** be assigned to a private collection agency if
17 more than one year has elapsed without a payment on the account.

18 (9) [*Notwithstanding subsection (1) of this section,*] A state agency may,
19 at its discretion, choose not to offer for assignment to a private collection
20 agency a liquidated and delinquent account that:

21 (a) Is secured by a consensual security interest in real or personal prop-
22 erty;

23 (b) Is a court-ordered judgment that includes restitution or a payment to
24 the Department of Justice Crime Victims' Assistance Section;

25 (c) Is in litigation, including bankruptcy, arbitration and mediation;

26 (d) Is a student loan owed by a student who is attending school;

27 (e) Is owed to a state agency by a local or state government or by the
28 federal government;

29 (f) Is owed by a debtor who is hospitalized in a state hospital as defined
30 in ORS 162.135 or who is on public assistance as defined in ORS 411.010;

31 (g) Is owed by a debtor who is imprisoned;

1 (h) Is less than \$100, including penalties; or

2 (i) Would result in loss of federal funding if assigned.

3 (10) Nothing in this section prohibits a state agency from collecting a tax
4 offset after a liquidated and delinquent account is assigned to a private col-
5 lection agency.

6 (11) For the purposes of this section, a state agency shall be deemed to
7 have offered for assignment an account if:

8 (a) The terms of the offer are of a type generally acceptable within the
9 collections industry for the type of account offered for assignment; and

10 (b) The offer is made to a private collection agency that engages in col-
11 lecting on accounts of the type sought to be assigned or is made generally
12 available to private collection agencies through a bid or request for proposal
13 process.

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

18 (a) Of the existence of the debt;

19 (b) That the debt may be assigned to a private collection agency for col-
20 lection; and

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

23 (13) Except as provided by federal law, the state agency may not add a
24 fee under subsection (12) of this section that exceeds the collection fee of the
25 private collection agency.

26 **SECTION 3.** ORS 1.197 is amended to read:

27 1.197. (1) Except as otherwise provided by law, all state courts and all
28 commissions, departments and divisions in the judicial branch of state gov-
29 ernment shall offer to assign the liquidated and delinquent accounts of the
30 state court, commission, department or division to a private collection
31 agency, or to the Department of Revenue under the provisions of ORS

1 293.250, not later than:

2 (a) One year from the date the account was liquidated if no payment has
3 been received on the account within that year; or

4 (b) One year from the date of receipt of the most recent payment on the
5 account.

6 (2) Nothing in subsection (1) of this section prohibits a state court or a
7 commission, department or division in the judicial branch of state govern-
8 ment from assigning a liquidated and delinquent account to a private col-
9 lection agency at any time within the one-year period, or from assigning a
10 liquidated and delinquent account to the Department of Revenue during the
11 one-year period, if that assignment is otherwise allowed by law.

12 (3) Nothing in this section prevents a state court or a commission, de-
13 partment or division in the judicial branch of state government from as-
14 signing an account to the Department of Revenue for the purpose of seeking
15 an offset against tax refunds or other amounts due the debtor at the time the
16 account is assigned to a private collection agency. A state court and any
17 commission, department or division in the judicial branch of state govern-
18 ment that assigns the same account to both the Department of Revenue and
19 a private collection agency shall ensure that both the Department of Reve-
20 nue and the private collection agency are kept informed of the status of all
21 collections made on the account.

22 (4) If a private collection agency is unable to collect on an account as-
23 signed under this section, the private collection agency shall notify the state
24 court, commission, department or division that assigned the account that the
25 private collection agency is unable to collect on the account and that the
26 private collection agency will relinquish the account. The private collection
27 agency shall relinquish the account within a reasonable time or within such
28 time as may be set by agreement. A private collection agency that is assigned
29 an account under this section shall be held to the same standard of
30 confidentiality, service and courtesy imposed on a state court in collecting
31 on liquidated and delinquent accounts.

1 (5) If a liquidated and delinquent account is assigned to the Department
2 of Revenue as provided in ORS 293.250, the Department of Revenue shall
3 have one year from the date of liquidation, or from the date of receipt of the
4 most recent payment on the account, to collect a payment. If the Department
5 of Revenue does not collect a payment within the one-year period or if one
6 year has elapsed since the date of receipt of the most recent payment on the
7 account, the Department of Revenue shall notify the state court, commission,
8 department or division that assigned the account. The state court, commis-
9 sion, department or division [*shall then immediately*] **may** offer assignment
10 of the account to a private collection agency.

11 (6) For the purposes of this section, a state court or a commission, de-
12 partment or division in the judicial branch of state government shall be
13 considered to have offered an account for assignment to a private collection
14 agency if:

15 (a) The terms of the offer are of a type generally accepted by the col-
16 lections industry for the type of account to be assigned; and

17 (b) The offer is made to a private collection agency that engages in the
18 business of collecting the type of account to be assigned or made generally
19 to private collection agencies through a bid or request for proposal process.

20 (7) The offer of assignment of accounts required under this section may
21 be made by the State Court Administrator on behalf of some or all of the
22 state courts and on behalf of some or all of the commissions, departments
23 and divisions in the judicial branch of state government.

24 **SECTION 4. ORS 293.233 is repealed.**

25 **SECTION 5. The amendments to ORS 1.197, 293.229 and 293.231 by**
26 **sections 1 to 3 of this 2011 Act and the repeal of ORS 293.233 by section**
27 **4 of this 2011 Act apply to liquidated and delinquent accounts required**
28 **to be offered for assignment on or after the effective date of this 2011**
29 **Act.**

30