

House Bill 2575

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of House Interim Committee on 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 state agency using debt collection assistance of Department of Revenue to add maximum amount charged by Department of Revenue for collection services to amount to be collected.

A BILL FOR AN ACT

1
2 Relating to public entity debt collection; amending ORS 293.231 and 697.105.

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

4 **SECTION 1.** ORS 293.231 is amended to read:

5 293.231. (1) Except as provided in subsections (4) to (9) of this section, a state agency, unless
6 otherwise prohibited by law, shall offer for assignment every liquidated and delinquent account to
7 a private collection agency or to the Department of Revenue as provided in ORS 293.250 not later
8 than:

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

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

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

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

20 (4) If a state agency assigns a liquidated and delinquent account to the Department of Revenue
21 as provided in ORS 293.250, the department shall have six months from the date of assignment to
22 collect a payment. If the department does not collect a payment within that six-month period or if
23 six months have elapsed since the date of receipt of the most recent payment on the account, the
24 department shall notify the state agency. The state agency shall then immediately offer for assign-
25 ment the debt to a private collection agency.

26 (5) The provisions of subsection (1) of this section do not apply to a liquidated and delinquent
27 account that is prohibited by state or federal law or regulation from assignment or collection.

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

31 (7) The Oregon Department of Administrative Services shall adopt rules exempting liquidated

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 and delinquent accounts that originate in the Department of Revenue or the Employment Depart-
 2 ment from the time periods established in subsections (1), (2) and (4) of this section.

3 (8) A liquidated and delinquent account that is subject to assignment under this section shall
 4 be assigned to a private collection agency if more than one year has elapsed without a payment on
 5 the account.

6 (9) Notwithstanding subsection (1) of this section, a state agency may, at its discretion, choose
 7 not to offer for assignment to a private collection agency a liquidated and delinquent account that:

8 (a) Is secured by a consensual security interest in real or personal property;

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

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

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

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

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

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

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

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

19 (10) Nothing in this section prohibits a state agency from collecting a tax offset after a liqui-
 20 dated and delinquent account is assigned to a private collection agency.

21 (11) For the purposes of this section, a state agency shall be deemed to have offered for as-
 22 signment an account if:

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

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

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

31 (a) Of the existence of the debt;

32 (b) That the debt may be assigned [*to a private collection agency*] for collection; and

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

34 (13) Except as provided by federal law, the state agency may not add a fee under subsection (12)
 35 of this section that exceeds:

36 (a) The collection fee of the private collection agency, **if the state agency has retained a**
 37 **private collection agency to collect the liquidated and delinquent account; or**

38 (b) **The maximum charge for the cost of assistance retained by the Department of Re-**
 39 **venue under ORS 293.250 (3)(a), if the state agency assigns the liquidated and delinquent ac-**
 40 **count to the Department of Revenue under ORS 293.250.**

41 **SECTION 2.** ORS 697.105 is amended to read:

42 697.105. (1) Except as provided in ORS 1.202 [*and 293.231*], if a public body, as defined in ORS
 43 174.109, uses a private collection agency to collect a debt owed to the public body, the public body
 44 may add a reasonable fee to the amount of the debt, payable by the debtor, to compensate the public
 45 body, in whole or in part, for the collection agency fee incurred or to be incurred.

1 (2) A fee may not be added under subsection (1) of this section unless the public body has pro-
2 vided notice to the debtor:

3 (a) Of the existence of the debt;

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

5 (c) Of the amount of the fee that may be added to the debt under subsection (1) of this section.

6 (3) Except as provided by federal law, the public body may not add a fee under this section that
7 exceeds the collection fee of the private collection agency.

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