

House Bill 3655

Sponsored by 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**.

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

A BILL FOR AN ACT

1
2 Relating to debt collection; creating new provisions; amending ORS 1.197, 293.229 and 293.231; and
3 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 shall submit a report
7 to the Legislative Fiscal Office that describes the status of that agency's liquidated and delinquent
8 accounts and efforts made by that agency to collect liquidated and delinquent accounts during the
9 previous fiscal year. The report required under this subsection shall be in a form prescribed by the
10 Legislative Fiscal Office and shall include but not be limited to:

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

12 (b) New liquidated and delinquent accounts added during the last preceding fiscal year;

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

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

16 (e) Total number and ending balance of all liquidated and delinquent accounts; **and**

17 (f) Total amount of liquidated and delinquent accounts turned over to private collection agencies
18 and total amount collected by those agencies under ORS 293.231[; *and*]

19 [*(g) Total number and total amount of all liquidated and delinquent accounts exempted under ORS*
20 *293.233*].

21 (2) The Legislative Fiscal Office shall produce an annual report not later than December 31 of
22 each fiscal year on the status of liquidated and delinquent accounts of state agencies. The report
23 shall be based on the reports submitted by state agencies as required in this section.

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

25 293.231. (1) Except as provided in subsections (4) to (9) of this section, a state agency, unless
26 otherwise prohibited by law, shall offer for assignment every liquidated and delinquent account to
27 a private collection agency or to the Department of Revenue as provided in ORS 293.250 not later
28 than:

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

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

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

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

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

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

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

20 (7) The Oregon Department of Administrative Services shall adopt rules exempting liquidated
 21 and delinquent accounts that originate in the Department of Revenue or the Employment Depart-
 22 ment from the time periods established in subsections (1), (2) and (4) of this section.

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

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

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

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

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

- 43 (a) The terms of the offer are of a type generally acceptable within the collections industry for
 44 the type of account offered for assignment; and
- 45 (b) The offer is made to a private collection agency that engages in collecting on accounts of

1 the type sought to be assigned or is made generally available to private collection agencies through
 2 a bid or request for proposal process.

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

- 6 (a) Of the existence of the debt;
- 7 (b) That the debt may be assigned to a private collection agency for collection; and
- 8 (c) Of the amount of the fee that may be added to the debt under this subsection.

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

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

12 1.197. (1) Except as otherwise provided by law, all state courts and all commissions, departments
 13 and divisions in the judicial branch of state government shall offer to assign the liquidated and de-
 14 linquent accounts of the state court, commission, department or division to a private collection
 15 agency, or to the Department of Revenue under the provisions of ORS 293.250, not later than:

- 16 (a) One year from the date the account was liquidated if no payment has been received on the
 17 account within that year; or
- 18 (b) One year from the date of receipt of the most recent payment on the account.

19 (2) Nothing in subsection (1) of this section prohibits a state court or a commission, department
 20 or division in the judicial branch of state government from assigning a liquidated and delinquent
 21 account to a private collection agency at any time within the one-year period, or from assigning a
 22 liquidated and delinquent account to the Department of Revenue during the one-year period, if that
 23 assignment is otherwise allowed by law.

24 (3) Nothing in this section prevents a state court or a commission, department or division in the
 25 judicial branch of state government from assigning an account to the Department of Revenue for the
 26 purpose of seeking an offset against tax refunds or other amounts due the debtor at the time the
 27 account is assigned to a private collection agency. A state court and any commission, department
 28 or division in the judicial branch of state government that assigns the same account to both the
 29 Department of Revenue and a private collection agency shall ensure that both the Department of
 30 Revenue and the private collection agency are kept informed of the status of all collections made
 31 on the account.

32 (4) If a private collection agency is unable to collect on an account assigned under this section,
 33 the private collection agency shall notify the state court, commission, department or division that
 34 assigned the account that the private collection agency is unable to collect on the account and that
 35 the private collection agency will relinquish the account. The private collection agency shall relin-
 36 quish the account within a reasonable time or within such time as may be set by agreement. A
 37 private collection agency that is assigned an account under this section shall be held to the same
 38 standard of confidentiality, service and courtesy imposed on a state court in collecting on liquidated
 39 and delinquent accounts.

40 (5) If a liquidated and delinquent account is assigned to the Department of Revenue as provided
 41 in ORS 293.250, the Department of Revenue shall have one year from the date of liquidation, or from
 42 the date of receipt of the most recent payment on the account, to collect a payment. If the Depart-
 43 ment of Revenue does not collect a payment within the one-year period or if one year has elapsed
 44 since the date of receipt of the most recent payment on the account, the Department of Revenue
 45 shall notify the state court, commission, department or division that assigned the account. The state

1 court, commission, department or division [*shall then immediately*] **may** offer assignment of the ac-
2 count to a private collection agency.

3 (6) For the purposes of this section, a state court or a commission, department or division in the
4 judicial branch of state government shall be considered to have offered an account for assignment
5 to a private collection agency if:

6 (a) The terms of the offer are of a type generally accepted by the collections industry for the
7 type of account to be assigned; and

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

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

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

15 **SECTION 5. The amendments to ORS 1.197, 293.229 and 293.231 by sections 1 to 3 of this**
16 **2011 Act and the repeal of ORS 293.233 by section 4 of this 2011 Act apply to liquidated and**
17 **delinquent accounts required to be offered for assignment on or after the effective date of**
18 **this 2011 Act.**