

# House Bill 2549

Sponsored by Representative GREENLICK (at the request of Nicole Gullish) (Pre-session filed.)

## 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 to decline to assign debt of estate to private collection agency if Department of Revenue has notice that estate has closed. Applies to debts owed as of effective date of Act. Declares emergency, effective July 1, 2015.

## A BILL FOR AN ACT

1  
2 Relating to collection of debts of estates; creating new provisions; amending ORS 293.231; and de-  
3 claring an emergency.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15 (f) Is owed by a debtor who is hospitalized in a state hospital as defined in ORS 162.135, who  
 16 receives public assistance as defined in ORS 411.010 or who receives medical assistance as defined  
 17 in ORS 414.025;

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

19 (h) Is less than \$100, including penalties; [or]

20 (i) Would result in loss of federal funding if assigned[.]; **or**

21 **(j) Is owed by an estate and the Department of Revenue has notice that the estate has**  
 22 **closed.**

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

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

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

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

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

35 (a) Of the existence of the debt;

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

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

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

40 **SECTION 2. The amendments to ORS 293.231 by section 1 of this 2015 Act apply to debts**  
 41 **owed as of the effective date of this 2015 Act.**

42 **SECTION 3. This 2015 Act being necessary for the immediate preservation of the public**  
 43 **peace, health and safety, an emergency is declared to exist, and this 2015 Act takes effect**  
 44 **July 1, 2015.**