

**PROPOSED AMENDMENTS TO
HOUSE BILL 2089**

1 On page 1 of the printed bill, line 2, delete the period and insert “; cre-
2 ating new provisions; amending ORS 293.229; 293.231, 305.155 and 305.895; and
3 prescribing an effective date.”.

4 Delete lines 4 through 27 and delete page 2 and insert:

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
7 agency shall submit a report to the Legislative Fiscal Office that describes
8 the status of that agency’s liquidated and delinquent accounts and efforts
9 made by that agency to collect liquidated and delinquent accounts during the
10 previous fiscal year. The report required under this subsection shall be in a
11 form prescribed by the Legislative Fiscal Office and shall include but not
12 be limited 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
21 accounts;

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

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[.]; **and**

5 **“(h) Total number and ending balance of all liquidated and delin-**
6 **quent accounts that have been placed in suspended collection status**
7 **under section 3 of this 2015 Act.**

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

12 **“SECTION 2.** ORS 293.231 is amended to read:

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

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

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

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

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

1 “(4) If a state agency assigns a liquidated and delinquent account to the
2 Department of Revenue as provided in ORS 293.250, the department shall
3 have six months from the date of assignment to collect a payment. If the
4 department does not collect a payment within that six-month period or if six
5 months have elapsed since the date of receipt of the most recent payment
6 on the account, the department shall notify the state agency. The state
7 agency shall then immediately offer for assignment the debt to a private
8 collection agency.

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

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

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

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

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

25 “(a) Is secured by a consensual security interest in real or personal
26 property;

27 “(b) Is a court-ordered judgment that includes restitution or a payment
28 to the Department of Justice Crime Victims’ Assistance Section;

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

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

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

3 “(f) Is owed by a debtor who is hospitalized in a state hospital as defined
4 in ORS 162.135, who receives public assistance as defined in ORS 411.010 or
5 who receives medical assistance as defined in ORS 414.025;

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

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

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

9 **“(j) Is eligible for suspension of collection as provided in section 3**
10 **of this 2015 Act.**

11 “(10) Nothing in this section prohibits a state agency from collecting a
12 tax offset after a liquidated and delinquent account is assigned to a private
13 collection agency.

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

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

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

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

26 “(a) Of the existence of the debt;

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

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

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

4 **“SECTION 3.** ORS 305.155 is amended to read:

5 “305.155. (1) The Department of Revenue shall cancel an unpaid tax im-
6 posed by laws of the State of Oregon that is collected by the department,
7 including any penalty or interest applicable to the tax, if the department
8 determines that:

9 “(a) The tax has been delinquent for seven or more years;

10 “(b) All reasonable efforts have been made to effect collection;

11 “(c) The taxpayer cannot be located or is dead; and

12 “(d) The tax is wholly uncollectible.

13 **“(2) The department shall offer to suspend collection of an unpaid**
14 **tax imposed by laws of the State of Oregon that is collected by the**
15 **department, including any penalty or interest applicable to the tax, if**
16 **the department determines that the individual liable for the debt:**

17 **“(a) Has income that does not exceed 200 percent of the federal**
18 **poverty guidelines based on the individual’s household size and**
19 **household members;**

20 **“(b) Has less than \$5,000 in assets; and**

21 **“(c) Has income solely from a source that is exempt from**
22 **garnishment under ORS chapter 18.**

23 “[2] (3) The department may cancel any tax imposed by laws of the State
24 of Oregon that is collected by the department or any portion of the tax as-
25 sessed against a person, including any penalty and interest that has not been
26 collected, if the department determines that the administration and col-
27 lection costs involved would exceed the amount that can reasonably be ex-
28 pected to be recovered.

29 “[3] (4) When taxes are canceled under subsection (1) or [(2)] (3) of this
30 section, the department shall make an order canceling the tax, penalties and

1 interest. The order shall be filed in the records of the department. Upon
2 making the order, the department also shall cause to be canceled or released
3 any lien of record **of the tax, penalties and interest** in the counties that
4 may have been filed and entered therein.

5 **“(5) When collection of taxes is suspended under subsection (2) of
6 this section:**

7 **“(a) The department shall continue to charge interest on the taxes
8 for which collection has been suspended.**

9 **“(b) The taxpayer may make voluntary payments of unpaid tax.
10 Voluntary payment of unpaid tax under this subsection does not affect
11 the taxpayer’s eligibility for suspension of collection under this section
12 or allow the department to resume collection of any unpaid tax.**

13 **“(c) The department may file a lien against the taxpayer’s property.**

14 **“(d) The department may resume collection as described in sub-
15 section (7) of this section if the taxpayer incurs additional unpaid tax
16 during the period of suspended collection.**

17 **“(6) Nothing in this section limits the department’s authority to
18 offset state or federal payments, including tax refunds, against unpaid
19 taxes that have been suspended under subsection (2) of this section.**

20 **“(7)(a) When collection of taxes is suspended under subsection (2)
21 of this section, the department shall review annually the taxpayer’s
22 eligibility for suspension of collection activities and ensure that the
23 taxpayer continues to meet all requirements listed in subsection (2)
24 of this section.**

25 **“(b) If the department determines that a taxpayer no longer meets
26 the requirements listed in subsection (2) of this section, the depart-
27 ment may resume collection of any unpaid tax. Not less than 30 days
28 before the department resumes collection under this subsection, the
29 department shall provide written notice to the taxpayer that the tax-
30 payer no longer qualifies for suspension of collection under this sec-**

1 **tion and that the department will resume collection of the unpaid tax.**

2 **“(8) The department may write off the debt on its accounts under**
3 **ORS 293.240 for any tax period for which collection has been suspended**
4 **under subsection (2) for more than three tax years.**

5 **“(9) The department shall by rule establish policies and procedures**
6 **for the administration of this section.**

7 **“SECTION 4.** ORS 305.895 is amended to read:

8 “305.895. (1) Except as provided in ORS 314.440 or other jeopardy assess-
9 ment procedure, the Department of Revenue shall take no action against a
10 taxpayer’s or transferee’s real or personal property before issuing a warrant
11 for the collection of tax or an amount payable by a transferee under ORS
12 311.695 as provided in ORS 314.430, 320.080, 321.570, 323.390, 323.610 and
13 324.190.

14 “(2) At least 30 days before issuing a warrant for collection of any tax
15 collected by the department or any amount payable under ORS 311.695, the
16 department shall send the taxpayer or transferee a written notice and de-
17 mand for payment. The notice shall:

18 “(a) Be sent by mail, addressed to the taxpayer or transferee at the
19 taxpayer’s or transferee’s last-known address.

20 “(b) Inform the taxpayer or transferee that, even if the taxpayer or
21 transferee is compliant with an installment agreement between the taxpayer
22 or transferee and the department and is in communication with the depart-
23 ment, if the tax or any portion of the tax or the amount payable under ORS
24 311.695 is not paid within 30 days after the date of the notice and demand
25 for payment, a warrant may be issued and recorded as provided in ORS
26 314.430, 320.080, 321.570, 323.390, 323.610 and 324.190.

27 “(c) Describe in clear nontechnical terms the legal authority for the
28 warrant.

29 “(d) Contain the name, office mailing address and office telephone number
30 of the person issuing the warrant and advise the taxpayer or transferee that

1 questions or complaints concerning the warrant, other than liability for the
2 underlying tax or amount payable under ORS 311.695, may be directed to that
3 person.

4 “(e) Include alternatives available to the taxpayer or transferee that
5 would prevent issuance of the warrant.

6 **“(f) Inform the taxpayer that certain types of income are exempt
7 from garnishment.**

8 “[*f*] (g) Inform the taxpayer or transferee of possible consequences to the
9 taxpayer or transferee of noncompliance, and of issuance of a warrant, in-
10 cluding garnishment of wages or bank accounts and seizure and sale of real
11 or personal property.

12 **“SECTION 5. Section 3 of this 2015 Act applies to tax debt that is
13 outstanding as of January 1, 2016.**

14 **“SECTION 6. This 2015 Act takes effect on the 91st day after the
15 date on which the 2015 regular session of the Seventy-eighth Legisla-
16 tive Assembly adjourns sine die.”.**

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