

Background

ORS 293.231 requires a state agency to assign liquidated and delinquent accounts to the Department of Revenue (DOR) for collection 90 days from the date of the most recent payment or date the account was liquidated if no payments have been received. Liquidated and delinquent generally means the original due date of the payment has passed, the debtor has had an opportunity to appeal and the amount due is known and final.

ORS 293.250 authorizes the DOR to collect liquid and delinquent accounts for more than 180 state agencies, boards, and commissions, including circuit courts and a wide variety of educational and regulatory agencies.

HB 3160 Introduced

HB 3160 creates an Oregon Wildfire Preparedness and Community Protection Fund, which is funded by a surcharge on casualty or property insurance policies and permits insurers to recoup the amount from insureds.

The bill requires insurers to remit the total surcharge, a minimum of \$1,000, to the Department of Consumer and Business Services (DCBS) by July 15 annually. The DCBS is required to forward to the DOR the names and amounts of insurers who fail to pay the surcharge owed by July 31 annually. The DOR is directed to collect the amounts due in the same manner it collects delinquent taxes due to the department and may also add a penalty for failure to pay as set forth in ORS 314.400.

The introduced version of the bill does not specify the debtor's opportunity to appeal the debt prior to assignment to the DOR, a requirement to properly liquidate a debt.

The assignment of delinquent debt outlined in ORS 293.231, requires accounts be liquidated and delinquent. The introduced version does not allow sufficient time to properly liquidate the debt prior to assignment to the DOR, as it specifies that the DCBS must assign the account to the DOR within 16 days after the date the insurer is required to remit payment to the DCBS.

HB 3160 -2 Amendment

Among other changes, the -2 amendment directs the DCBS to issue a billing notice for amounts an insurer fails to pay timely, including applicable late fees and penalties. Additionally, the -2 amendment provides debtors the opportunity to appeal and sufficient time for the DCBS to properly liquidate the debt before assignment to the DOR for collection. The -2 amendment corrects the department's concerns with the introduced version of the bill, however it does create an inconsistency with current law.

The -2 amendment requires the DCBS to forward a liquidated and delinquent account to the DOR after 90 days, without regard to whether the debtor is making payments on the account to
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the DCBS. This is inconsistent with ORS 293.231 which requires agencies to forward accounts to the DOR 90 days after the account has been liquidated if no payment has been received, or 90 days after the last payment. While the -2 amendment can be administered by the DOR, it could result in cooperative debtors, who are making timely payments to the DCBS, being charged for the cost of the DOR's collection activity unnecessarily because the DCBS would be required to send those accounts to us.

To avoid that potential unintended outcome, in the -2 amendment, page 8, lines 21 and 22, delete "**not later than 90 days after the date on which the director liquidated the debt**" and replace with "**under ORS 293.231**".

The -2 amendment addresses the department's initial concerns with the bill and is administrable by the DOR at a minimal fiscal impact.

Contact

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