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D R A F T

SUMMARY

Authorizes Oregon Department of Administrative Services to exempt certain accounts that originate in Department of Revenue from general requirement to assign liquidated and delinquent account to private collection agency within one year of most recent payment on account.

A BILL FOR AN ACT

Relating to Department of Revenue debt collections; amending ORS 293.231.

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

SECTION 1. ORS 293.231 is amended to read:

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

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

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

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

(3)(a) If a state agency assigns a liquidated and delinquent account to the Department of Revenue as provided in ORS 293.250, the department has six months from the date of assignment to collect a payment. If the department does not collect a payment within that six-month period or if six months

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 have elapsed since the date of receipt of the most recent payment on the
2 account, the department shall immediately offer for assignment the debt to
3 a private collection agency and notify the state agency of the assignment.

4 (b) Nothing in this subsection prohibits the department from offering for
5 assignment the debt to a private collection agency at any time within the
6 six-month period.

7 (4) The provisions of subsection (1) of this section do not apply to a liq-
8 uidated and delinquent account that is prohibited by state or federal law or
9 regulation from assignment or collection.

10 (5) The Oregon Department of Administrative Services may adopt rules
11 exempting specified kinds of liquidated and delinquent accounts from the
12 time periods established in subsections (1), (2), [and] (3) **and (6)** of this sec-
13 tion.

14 (6)(a) Notwithstanding subsection (1) of this section, liquidated and de-
15 linquent accounts that originate in the Department of Revenue shall be of-
16 fered for assignment by the department to a private collection agency not
17 later than one year from the date of the most recent payment on the account.

18 (b) Nothing in this subsection prohibits the Department of Revenue from
19 offering for assignment a liquidated and delinquent account that originates
20 in the department to a private collection agency at any time within the
21 one-year period.

22 (c) The Oregon Department of Administrative Services shall adopt rules
23 exempting liquidated and delinquent accounts that originate in the Employ-
24 ment Department from the time periods established in subsections (1), (2) and
25 (3) of this section.

26 (7) Notwithstanding subsections (1) and (6) of this section, a state agency
27 or the Department of Revenue may, at its discretion, choose not to offer for
28 assignment to the Department of Revenue or a private collection agency a
29 liquidated and delinquent account that:

30 (a) Is secured by a consensual security interest in real or personal prop-
31 erty;

1 (b) Is a court-ordered judgment that includes restitution or a payment to
2 the Department of Justice [*Crime Victims' Assistance Section*] **Crime Victim**
3 **and Survivor Services Division**;

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

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

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

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

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

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

13 (i) Would result in loss of federal funding if assigned;

14 (j) Is owed by an estate and the state agency has notice that the estate
15 has closed; or

16 (k) Is eligible for suspension of collection as provided in ORS 305.155.

17 (8) Nothing in this section prohibits a state agency from collecting a
18 setoff against any refunds or sums due to the debtor from the state agency
19 after a liquidated and delinquent account is assigned to a private collection
20 agency.

21 (9) For the purposes of this section, the Department of Revenue is con-
22 sidered to have offered for assignment to a private collection agency an ac-
23 count if:

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

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

30 (10)(a) A state agency that assigns a liquidated and delinquent account
31 to the Department of Revenue may add a fee to be paid by the debtor to the

1 amount of the liquidated and delinquent account. The fee may include
2 amounts attributable to collections conducted by private collection agencies
3 as provided in subsection (3) of this section.

4 (b) A fee may not be added under this subsection unless the state agency
5 has provided notice to the debtor:

6 (A) Of the existence of the debt;

7 (B) That the debt may be assigned to the Department of Revenue for
8 collection; and

9 (C) Of the amount of the fee that may be added to the debt under this
10 subsection.

11 (11) For any liquidated and delinquent account that the Department of
12 Revenue assigns to a private collection agency under subsection (6) of this
13 section, the department may add a fee to the amount of the liquidated and
14 delinquent account as provided in ORS 697.105. A fee may not be added under
15 this subsection unless the department has provided notice to the debtor:

16 (a) Of the existence of the debt;

17 (b) That the debt may be assigned to a private collection agency for col-
18 lection; and

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

21 (12) Except as provided by federal law, a state agency or the Department
22 of Revenue may not add a fee under subsection (10) or (11) of this section
23 that exceeds the collection fee of the private collection agency or the de-
24 partment.

25 (13)(a) A private collection agency that collects an account under this
26 section shall be held to the same standard of confidentiality, service and
27 courtesy imposed on the Department of Revenue.

28 (b) The department shall set forth in writing the standards described in
29 paragraph (a) of this subsection and shall transmit the writing to a private
30 collection agency before assigning an account to the agency under this sec-
31 tion.

1 (14)(a) A state agency may recall an account assigned to the Department
2 of Revenue if the account is deemed uncollectible under ORS 293.240 or set-
3 tled by compromise under ORS 293.240, or if the account may not be collected
4 under state or federal law or is eligible for cancellation under state or fed-
5 eral law.

6 (b) If an account recalled under this subsection was assigned to a private
7 collection agency, the department shall cancel and recall the account from
8 the private collection agency.

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