

GOVERNMENT CODE

CHAPTER 2107. COLLECTION OF DELINQUENT OBLIGATIONS TO STATE

Sec. 2107.001. DEFINITIONS. In this chapter:

(1) "Obligation" includes a debt, judgment, claim, account, fee, fine, tax, penalty, interest, loan, charge, or grant.

(2) "State agency" means an agency, board, commission, institution, or other unit of state government.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2107.002. AGENCY COLLECTION PROCESS. (a) The attorney general shall adopt uniform guidelines for the process by which a state agency collects delinquent obligations owed to the agency.

(b) A state agency that collects delinquent obligations owed to the agency shall establish procedures by rule for collecting a delinquent obligation and a reasonable period for collection. The rules must conform to the guidelines established by the attorney general.

(c) Until a state agency adopts rules under this section, the attorney general by rule may establish collection procedures for the agency, including the period for collecting a delinquent obligation.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2107.003. COLLECTION BY ATTORNEY GENERAL OR OUTSIDE AGENT. (a) Except as provided by Subsection (c), a state agency shall request the attorney general to collect an obligation before the agency may employ, retain, or contract with a person other than a full-time employee of the state agency to collect the obligation.

(b) The attorney general may authorize the requesting state agency to employ, retain, or contract with a person other than a full-time employee of the agency to collect an obligation that the attorney general cannot collect.

(c) The comptroller may employ, retain, or contract with a person other than a full-time state employee to collect delinquent obligations that are owed the comptroller in the comptroller's official capacity, are not collected through normal collection procedures, and do not meet the guidelines adopted for collection by the attorney general. A proposed contract under this subsection shall be reviewed by the attorney general and may include a collection fee computed on the amounts collected under the contract.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Amended by Acts 1997, 75th Leg., ch. 653, Sec. 1, eff. Sept. 1, 1997.

Sec. 2107.004. NOTICE TO ATTORNEY GENERAL FOR FURTHER COLLECTION. Except as provided by Section 2107.003(c), not later than the 120th day after the date an obligation becomes delinquent or past due or the 30th day after the comptroller determines that its efforts to collect an obligation owed the agency have failed, the agency shall report the uncollected and delinquent obligation to the attorney general for further collection efforts.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Amended by Acts 1997, 75th Leg., ch. 653, Sec. 2, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 470, Sec. 1, eff. Sept. 1, 1999.

Sec. 2107.005. REPORTS TO ATTORNEY GENERAL. The attorney general may develop specific reporting procedures for each state agency and may adopt rules relating to the reports, including rules specifying when an agency must report and what information must be included in the report. Each state agency shall file an annual debt report with the attorney general not later than the 90th day after the end of each fiscal year. The report shall contain the information required by rules adopted under this section by the attorney general.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Amended by Acts 1999, 76th Leg., ch. 470, Sec. 2, eff. Sept. 1, 1999.

Sec. 2107.006. ATTORNEY FEES AND COSTS. In any proceeding under this chapter or other law in which the state seeks to collect or recover a delinquent obligation or damages, the attorney general may recover reasonable attorney fees, investigative costs, and court costs incurred on behalf of the state in the proceeding in the same manner as provided by general law for a private litigant.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2107.007. RETENTION OF COLLECTION FEE. (a) An obligation reported to the attorney general for collection under this chapter is subject to a collection fee for the use and benefit of the attorney general as provided by legislative appropriation.

(b) The attorney general may retain the amount of the collection fee from the amount of the obligation collected.

(c) A collection fee may not be retained from amounts collected for the unemployment compensation fund established under Subchapter B, Chapter 203, Labor Code.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 8.18, eff. Sept. 1, 1999.

Sec. 2107.008. PAYMENTS TO DEBTORS OR DELINQUENTS PROHIBITED. (a) Except as provided by this section, a state agency, as a ministerial duty, may not use funds in or outside of the state treasury to pay a person if Section 403.055 prohibits the comptroller from issuing a warrant or initiating an electronic funds transfer to the person.

(b) Except as provided by this section, a state agency may refuse to use funds in or outside of the state treasury to pay a person if the person is indebted to the state or has a tax delinquency and the agency is responsible for collecting that indebtedness or delinquency. This subsection applies only if Section 403.055 does not prohibit the comptroller from issuing a warrant or initiating an electronic funds transfer to the person.

(c) A state agency may not pay the assignee of a person that the agency may not pay under Subsection (a) if Section 403.055 prohibits the comptroller from issuing a warrant or initiating an electronic funds transfer to the assignee. The agency may refuse to pay the assignee of a person that the agency may refuse to pay under Subsection (b) if the assignment became effective after the person became indebted to the state or incurred a tax delinquency.

(d) A state agency that Subsection (a) prohibits from making a payment to a person also is prohibited from paying any part of that payment to:

- (1) the person's estate;
- (2) the distributees of the person's estate; or
- (3) the person's surviving spouse.

(e) A state agency that may refuse to make a payment to a person under Subsection (b) also may refuse to make any part of that payment to:

- (1) the person's estate;
- (2) the distributees of the person's estate; or
- (3) the person's surviving spouse.

(f) This section neither prohibits a state agency from paying nor authorizes a state agency to refuse to pay a person or the person's assignee if the agency determines that the person is complying with an installment payment agreement or similar agreement between the agency and that person to pay or eliminate the debt or delinquency.

(g) The comptroller may not reimburse a state agency for a payment that the comptroller determines was made in violation of Subsection (a).

(h) Subsection (b) does not authorize a state agency to refuse to pay:

- (1) the compensation of a state officer or employee; or
- (2) the remuneration of an individual if the remuneration is being paid by a private person through the agency.

(i) Subsection (b) does not authorize a state agency to refuse to make a payment if:

- (1) the payment would be made in whole or in part with money paid to the state by the United States; and
- (2) the agency determines that federal law:
 - (A) requires the payment to be made; or
 - (B) conditions the state's receipt of the money on the payment being made.

(j) A state agency may not refuse to make a payment under Subsection (b) before the agency has provided the person with an opportunity to exercise any due process or other constitutional or statutory protection that must be accommodated before the agency or the state may begin a collection action or procedure.

(k) Subsection (a) does not prohibit a state agency from making a payment if each state agency that properly reported the person to the comptroller under Section 403.055(f) consents to the payment.

(l) This section does not apply to the extent that Section 57.482, Education Code, applies.

(m) This section applies to a payment only if the

comptroller is not responsible under Section 404.046, 404.069, or 2103.003 for issuing a warrant or initiating an electronic funds transfer to make the payment.

(n) In this section:

(1) "Compensation," "state officer or employee," and "tax delinquency" have the meanings assigned by Section 403.055.

(2) "State agency" has the meaning assigned by Section 403.055, notwithstanding Section 2107.001.

Added by Acts 1999, 76th Leg., ch. 1467, Sec. 1.29, eff. Oct. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1158, Sec. 44, eff. June 15, 2001.