

GOVERNMENT CODE

TITLE 10. GENERAL GOVERNMENT

SUBTITLE C. STATE ACCOUNTING, FISCAL MANAGEMENT, AND PRODUCTIVITY

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) or (c-1), a state agency shall refer an uncollected and delinquent obligation that meets the referral guidelines established by the attorney general to the attorney general for further collection efforts. The state agency must refer the obligation on or before the 90th day after the date the obligation becomes past due or delinquent.

(b) The attorney general:

(1) may provide legal services for collection of the obligation;

(2) may authorize the requesting state agency to employ, retain, or contract with, subject to approval by the attorney general and subject to the agency's compliance with applicable guidelines established by the attorney general, one or more persons to collect the obligation; or

(3) if the attorney general determines it to be economical and in the best interest of the state, may contract on behalf of the state agency with one or more persons to collect the obligation.

(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 referral guidelines adopted for collection by the attorney general. A proposed contract under this subsection shall be reviewed by the attorney general. A person contracting with the comptroller under this subsection is entitled to a collection fee, as provided under the contract, in an amount not to exceed 30 percent of the full amount of the obligation.

(c-1) The comptroller may also contract with one or more persons to collect delinquent obligations that have been referred to the attorney general and that the attorney general has returned to the comptroller after exhausting all reasonable collection efforts. A proposed contract under this subsection shall be reviewed by the attorney general. A person contracting with the comptroller under this subsection is entitled to a collection fee equal to 30 percent of the full amount of the obligation collected.

(d) The agency contracting under Subsection (b) or (c) is entitled to recover from the obligor, in addition to the amount of the obligation, reasonable costs incurred in undertaking the collection, including the costs of a contract under this section, in an amount not to exceed 30 percent of the total amount of the obligation.

(e) A person awarded a contract under Subsection (b), (c), or (c-1) may not file suit or otherwise pursue judicial action to collect the obligation owed in a court of this state or another state on behalf of the contracting state agency.

(f) Except as provided by Subsection (b)(3), a state agency may determine in its sole discretion which obligations to refer to a private collection firm for collection.

(g) The contracting state agency may provide a person contracting under Subsection (b), (c), or (c-1) any information, including confidential information, that the agency is not prohibited from sharing with another state or with the United States and that is:

(1) in the custody of the agency owed the obligation; and

(2) necessary to the collection of the obligation.

(h) A person acting under a contract formed under Subsection (b), (c), or (c-1) and each employee or agent of that person is subject to all statutory prohibitions against the wrongful disclosure of confidential information that the contracting state agency and its employees are subject to. A contractor's employee is subject to the same penalties for wrongful disclosure of confidential information as would apply to the employees of the contracting agency.

(i) The contracting agency shall require a person who contracts under Subsection (b), (c), or (c-1) to obtain and maintain insurance adequate to provide reasonable coverage for damages negligently, recklessly, or intentionally caused by the contractor or the contractor's employee or agent in the course of collecting an obligation under the contract.

(j) A person who contracts with a state agency under this section is subject to Chapter [392](#), Finance Code.

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.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1386 (S.B. [1615](#)), Sec. 1, eff. September 1, 2007.

Sec. 2107.004. NOTICE BY COMPTROLLER TO ATTORNEY GENERAL FOR FURTHER COLLECTION. Except as provided by Section [2107.003](#), not later than the 30th day after the comptroller determines that

its efforts to collect a delinquent obligation have failed, the comptroller 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.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1386 (S.B. [1615](#)), Sec. 2, eff. September 1, 2007.

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.