

By: Averitt, Duncan

S.B. No. 1615

A BILL TO BE ENTITLED

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AN ACT

relating to the collection of delinquent obligations owed to the state.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 2107.003, Government Code, is amended to read as follows:

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 [request] 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 [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:

(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

1 (3) if the attorney general determines it to be
2 economical and in the best interest of the state, may contract on
3 behalf of the state agency with one or more persons [~~a person other~~
4 ~~than a full-time employee of the agency~~] to collect the [~~an~~]
5 obligation [~~that the attorney general cannot collect~~].

6 (c) The comptroller may employ, retain, or contract with a
7 person other than a full-time state employee to collect delinquent
8 obligations that are owed the comptroller in the comptroller's
9 official capacity, are not collected through normal collection
10 procedures, and do not meet the referral guidelines adopted for
11 collection by the attorney general. A proposed contract under this
12 subsection shall be reviewed by the attorney general [~~and may~~
13 ~~include a collection fee computed on the amounts collected under~~
14 ~~the contract~~]. A person contracting with the comptroller under
15 this subsection is entitled to a collection fee, as provided under
16 the contract, in an amount not to exceed 30 percent of the full
17 amount of the obligation.

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

26 (d) The agency contracting under Subsection (b) or (c) is
27 entitled to recover from the obligor, in addition to the amount of

1 the obligation, reasonable costs incurred in undertaking the
2 collection, including the costs of a contract under this section,
3 in an amount not to exceed 30 percent of the total amount of the
4 obligation.

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

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

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

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

19 (2) necessary to the collection of the obligation.

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

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

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

9 SECTION 2. Section 2107.004, Government Code, is amended to
10 read as follows:

11 Sec. 2107.004. NOTICE BY COMPTROLLER TO ATTORNEY GENERAL
12 FOR FURTHER COLLECTION. Except as provided by Section
13 2107.003[~~(c)~~], not later than the [~~120th day after the date an~~
14 ~~obligation becomes delinquent or past due or the~~] 30th day after the
15 comptroller determines that its efforts to collect a delinquent
16 ~~[an]~~ obligation ~~[owed the agency]~~ have failed, the comptroller
17 ~~[agency]~~ shall report the uncollected and delinquent obligation to
18 the attorney general for further collection efforts.

19 SECTION 3. Subsection (c), Section 2254.102, Government
20 Code, is amended to read as follows:

21 (c) This subchapter does not apply to a contract:

22 (1) with a state agency to collect an obligation under
23 Section 2107.003(b), (c), or (c-1); or

24 (2) for legal services entered into by an institution
25 of higher education under Section 153.006, Education Code.

26 SECTION 4. The changes in law made by this Act to Sections
27 2107.003, 2107.004, and 2254.102, Government Code, apply only in

1 relation to a contract for the collection of delinquent taxes or
2 obligations that is entered into on or after the effective date of
3 this Act. A contract for the collection of delinquent taxes or
4 obligations entered into before the effective date of this Act is
5 governed by the law in effect on the date the contract was entered
6 into, and the former law is continued in effect for that purpose.

7 SECTION 5. This Act takes effect September 1, 2007.