

1-1 By: Averitt S.B. No. 1615
1-2 (In the Senate - Filed March 8, 2007; March 21, 2007, read
1-3 first time and referred to Committee on Finance; April 25, 2007,
1-4 reported adversely, with favorable Committee Substitute by the
1-5 following vote: Yeas 15, Nays 0; April 25, 2007, sent to printer.)

1-6 COMMITTEE SUBSTITUTE FOR S.B. No. 1615 By: Averitt

1-7 A BILL TO BE ENTITLED
1-8 AN ACT

1-9 relating to the collection of delinquent obligations owed to the
1-10 state.

1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-12 SECTION 1. Section 2107.003, Government Code, is amended to
1-13 read as follows:

1-14 Sec. 2107.003. COLLECTION BY ATTORNEY GENERAL OR OUTSIDE
1-15 AGENT. (a) Except as provided by Subsection (c) or (c-1), a state
1-16 agency shall refer an uncollected and delinquent obligation that
1-17 meets the referral guidelines established by the attorney general
1-18 to [request] the attorney general for further collection efforts.
1-19 The state agency must refer the obligation on or before the 90th day
1-20 after the date the obligation becomes past due or delinquent [to
1-21 collect an obligation before the agency may employ, retain, or
1-22 contract with a person other than a full-time employee of the state
1-23 agency to collect the obligation].

1-24 (b) The attorney general:

1-25 (1) may provide legal services for collection of the
1-26 obligation;

1-27 (2) may authorize the requesting state agency to
1-28 employ, retain, or contract with, subject to approval by the
1-29 attorney general and subject to the agency's compliance with
1-30 applicable guidelines established by the attorney general, one or
1-31 more persons to collect the obligation; or

1-32 (3) if the attorney general determines it to be
1-33 economical and in the best interest of the state, may contract on
1-34 behalf of the state agency with one or more persons [a person other
1-35 than a full-time employee of the agency] to collect the [an]
1-36 obligation [that the attorney general cannot collect].

1-37 (c) The comptroller may employ, retain, or contract with a
1-38 person other than a full-time state employee to collect delinquent
1-39 obligations that are owed the comptroller in the comptroller's
1-40 official capacity, are not collected through normal collection
1-41 procedures, and do not meet the referral guidelines adopted for
1-42 collection by the attorney general. A proposed contract under this
1-43 subsection shall be reviewed by the attorney general [and may
1-44 include a collection fee computed on the amounts collected under
1-45 the contract]. A person contracting with the comptroller under
1-46 this subsection is entitled to a collection fee, as provided under
1-47 the contract, in an amount not to exceed 30 percent of the full
1-48 amount of the obligation.

1-49 (c-1) The comptroller may also contract with one or more
1-50 persons to collect delinquent obligations that have been referred
1-51 to the attorney general and that the attorney general has returned
1-52 to the comptroller after exhausting all reasonable collection
1-53 efforts. A proposed contract under this subsection shall be
1-54 reviewed by the attorney general. A person contracting with the
1-55 comptroller under this subsection is entitled to a collection fee
1-56 equal to 30 percent of the full amount of the obligation collected.

1-57 (d) The agency contracting under Subsection (b) or (c) is
1-58 entitled to recover from the obligor, in addition to the amount of
1-59 the obligation, reasonable costs incurred in undertaking the
1-60 collection, including the costs of a contract under this section,
1-61 in an amount not to exceed 30 percent of the total amount of the
1-62 obligation.

1-63 (e) A person awarded a contract under Subsection (b), (c),

2-1 or (c-1) may not file suit or otherwise pursue judicial action to
2-2 collect the obligation owed in a court of this state or another
2-3 state on behalf of the contracting state agency.

2-4 (f) Except as provided by Subsection (b)(3), a state agency
2-5 may determine in its sole discretion which obligations to refer to a
2-6 private collection firm for collection.

2-7 (g) The contracting state agency may provide a person
2-8 contracting under Subsection (b), (c), or (c-1) any information,
2-9 including confidential information, that the agency is not
2-10 prohibited from sharing with another state or with the United
2-11 States and that is:

2-12 (1) in the custody of the agency owed the obligation;
2-13 and

2-14 (2) necessary to the collection of the obligation.

2-15 (h) A person acting under a contract formed under Subsection
2-16 (b), (c), or (c-1) and each employee or agent of that person is
2-17 subject to all statutory prohibitions against the wrongful
2-18 disclosure of confidential information that the contracting state
2-19 agency and its employees are subject to. A contractor's employee is
2-20 subject to the same penalties for wrongful disclosure of
2-21 confidential information as would apply to the employees of the
2-22 contracting agency.

2-23 (i) The contracting agency shall require a person who
2-24 contracts under Subsection (b), (c), or (c-1) to obtain and
2-25 maintain insurance adequate to provide reasonable coverage for
2-26 damages negligently, recklessly, or intentionally caused by the
2-27 contractor or the contractor's employee or agent in the course of
2-28 collecting an obligation under the contract.

2-29 (j) A person who contracts with a state agency under this
2-30 section is subject to Chapter 392, Finance Code.

2-31 SECTION 2. Section 2107.004, Government Code, is amended to
2-32 read as follows:

2-33 Sec. 2107.004. NOTICE BY COMPTROLLER TO ATTORNEY GENERAL
2-34 FOR FURTHER COLLECTION. Except as provided by Section
2-35 2107.003[~~(c)~~], not later than the [~~120th day after the date an~~
2-36 ~~obligation becomes delinquent or past due or the~~] 30th day after the
2-37 comptroller determines that its efforts to collect a delinquent
2-38 [~~an~~] obligation [~~owed the agency~~] have failed, the comptroller
2-39 [~~agency~~] shall report the uncollected and delinquent obligation to
2-40 the attorney general for further collection efforts.

2-41 SECTION 3. Subsection (c), Section 2254.102, Government
2-42 Code, is amended to read as follows:

2-43 (c) This subchapter does not apply to a contract:

2-44 (1) with a state agency to collect an obligation under
2-45 Section 2107.003(b), (c), or (c-1); or

2-46 (2) for legal services entered into by an institution
2-47 of higher education under Section 153.006, Education Code.

2-48 SECTION 4. The changes in law made by this Act to Sections
2-49 2107.003, 2107.004, and 2254.102, Government Code, apply only in
2-50 relation to a contract for the collection of delinquent taxes or
2-51 obligations that is entered into on or after the effective date of
2-52 this Act. A contract for the collection of delinquent taxes or
2-53 obligations entered into before the effective date of this Act is
2-54 governed by the law in effect on the date the contract was entered
2-55 into, and the former law is continued in effect for that purpose.

2-56 SECTION 5. This Act takes effect September 1, 2007.

2-57 * * * * *