

By: Phelan

H.B. No. 632

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to a pilot program for the recovery of delinquent state  
3 obligations owed to certain state agencies.

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

5 SECTION 1. Chapter 2107, Government Code, is amended by  
6 designating Sections 2107.001 through 2107.008 as Subchapter A and  
7 adding a subchapter heading to read as follows:

8 SUBCHAPTER A. COLLECTION OF DELINQUENT OBLIGATIONS BY ATTORNEY

9 GENERAL

10 SECTION 2. Chapter 2107, Government Code, is amended by  
11 adding Subchapter B to read as follows:

12 SUBCHAPTER B. PILOT PROGRAM FOR RECOVERY OF OBLIGATIONS OWED TO

13 STATE AGENCIES

14 Sec. 2107.051. DEFINITIONS. In this subchapter:

15 (1) "Contractor" means an entity selected by the  
16 attorney general under Section 2107.052(a).

17 (2) "Debtor" means a person who is indebted to a state  
18 agency for any delinquent account, charge, fee, loan, or other form  
19 of indebtedness.

20 (3) "Financial institution" means a bank or any other  
21 form of depository institution, credit union, benefit association,  
22 insurance entity, safe deposit entity, bond fund, money market  
23 mutual fund, or mutual fund of any kind or character.

24 Sec. 2107.052. PILOT PROGRAM FOR DELINQUENT STATE

1 OBLIGATION RECOVERY. (a) The attorney general shall contract with  
2 one or more entities to collect delinquent obligations owed to  
3 state agencies as provided by this subchapter.

4 (b) The attorney general shall provide for a contractor  
5 selected by the attorney general under Subsection (a) to conduct an  
6 assessment of all nontax delinquent obligations owed to all state  
7 agencies and identify for participation in a pilot program the 75  
8 state agencies that have the highest percentage of recoverable  
9 obligations.

10 (c) A state agency that is identified for participation in  
11 the pilot program under Subsection (b) shall refer outstanding  
12 obligations owed to the agency to a contractor for collection in  
13 accordance with this subchapter to the extent the referral is  
14 allowable under state and federal law.

15 (d) In addition to the state agencies identified by a  
16 contractor under Subsection (b), an entity in the state judicial  
17 system or a public institution of higher education may refer  
18 outstanding obligations owed to the entity or institution to a  
19 contractor for collection in accordance with this subchapter to the  
20 extent the referral is allowable under state and federal law.

21 Sec. 2107.053. POWERS AND DUTIES OF CONTRACTOR. (a) A  
22 contractor shall attempt to collect each obligation referred to the  
23 contractor by a state agency.

24 (b) A contractor is not a debt collection agency. The nature  
25 of an obligation owed to a state agency and referred to a contractor  
26 does not change as a result of the referral.

27 (c) With respect to a referred obligation, a contractor may:

- 1           (1) sue;
- 2           (2) file a lien;
- 3           (3) enter into a payment agreement with the debtor,  
4 subject to Section 55, Article III, Texas Constitution;
- 5           (4) impose a cost recovery fee;
- 6           (5) collect information for obligation recovery  
7 purposes;
- 8           (6) exercise any settlement authority the referring  
9 state agency is authorized by law to exercise and delegates to the  
10 contractor;
- 11           (7) seek a judicial or administrative determination of  
12 a referred obligation and, following the rendering of the  
13 determination:
  - 14                   (A) deliver a notice of levy to a financial  
15 institution possessing or controlling assets or funds owned by, or  
16 owed to, a debtor; or
  - 17                   (B) impose income garnishment or withholding  
18 against a debtor to the extent permitted by law;
- 19           (8) create and maintain a data match system with  
20 financial institutions;
- 21           (9) create and maintain a centralized electronic  
22 obligation management system to collect, track, and maintain  
23 information relating to obligation recovery under this subchapter;
- 24           (10) reduce the amount of any money to be paid to a  
25 debtor by this state by the amount of the referred obligation;
- 26           (11) enter into contracts with one or more third-party  
27 debt collectors to collect the obligation on behalf of the

1 contractor;

2 (12) use any other debt collection method authorized  
3 by state law; and

4 (13) use any other power this subchapter grants the  
5 contractor.

6 (d) The contractor may determine the method or methods that  
7 are most suitable to use in attempting to collect a referred  
8 obligation.

9 (e) A contractor selected by the attorney general under  
10 Section 2107.052(b) shall perform annually an assessment of all  
11 outstanding obligations owed to state agencies that are eligible  
12 for referral to the contractor.

13 Sec. 2107.054. NOTICE OF REFERRAL OF OBLIGATION TO  
14 CONTRACTOR. (a) Before referring a delinquent obligation to a  
15 contractor for collection, the state agency to which the obligation  
16 is owed must provide a final notice to the debtor stating that:

17 (1) the debt will be referred to a contractor for  
18 collection; and

19 (2) a cost recovery fee of 30 percent of the total  
20 amount due on the date of the referral will be added to the total  
21 amount owed if the obligation is referred to a contractor.

22 (b) A state agency may enter into a contract with a  
23 contractor that, using a benefits-funded model, enables the  
24 contractor to:

25 (1) provide the final notice required by Subsection  
26 (a) to debtors on behalf of the agency; or

27 (2) collect delinquent obligations that are owed to

1 the agency on behalf of the agency, before the referral of the  
2 obligations to the contractor by the agency in accordance with the  
3 pilot program created under this subchapter.

4 (c) The attorney general shall create a process for a debtor  
5 to challenge the recovery of an obligation by a contractor under  
6 this subchapter. The process must provide that a challenge to the  
7 recovery of an obligation by a contractor may be made only by the  
8 debtor and must be made in writing.

9 Sec. 2107.055. COLLECTION OF INFORMATION. (a) Information  
10 regarding an obligation referred to a contractor for collection  
11 under this subchapter is confidential.

12 (b) Notwithstanding any other law, a state agency that  
13 refers an obligation to a contractor for collection may share any  
14 information with the contractor that the contractor considers  
15 relevant and necessary to assist in the collection of the  
16 obligation.

17 (c) Information a state agency provides to a contractor may  
18 be used only for the purpose of collecting a referred obligation.

19 (d) Any information, record, or file used by a contractor to  
20 collect an obligation under this subchapter is privileged and  
21 confidential. A person may not disclose any information obtained  
22 from the information, records, or files used by a contractor,  
23 except in relation to the administration or enforcement of an  
24 obligation.

25 (e) A contractor may not use any information, record, or  
26 file that contains information protected by the Health Insurance  
27 Portability and Accountability Act and Privacy Standards, as that

1 term is defined by Section 181.001, Health and Safety Code, to  
2 collect an obligation.

3 Sec. 2107.056. COST RECOVERY FEE. (a) To fund the  
4 obligation recovery authorized under this subchapter, a contractor  
5 shall impose a cost recovery fee for any referred obligation. The  
6 cost recovery fee is a debt owed by the debtor and is in addition to  
7 the amount of the referred obligation.

8 (b) The amount of the cost recovery fee is equal to 30  
9 percent of the total amount due on the date of the referral.

10 (c) A contractor may use any debt collection method  
11 authorized by law for collecting a referred debt to collect the cost  
12 recovery fee.

13 Sec. 2107.057. COLLECTION OF OBLIGATION BY CONTRACTOR. (a)  
14 Notwithstanding any other provision of law providing for execution,  
15 attachment, garnishment, or levy against a person's accounts, a  
16 contractor may seek income garnishment or a notice of levy for a  
17 financial institution to collect an obligation referred to the  
18 contractor.

19 (b) If a debtor has an outstanding obligation that has been  
20 referred to a contractor for collection, any payment made by the  
21 debtor to the state is subject to offset by the contractor unless:

22 (1) the debtor has paid the referred obligation and  
23 cost recovery charge in full; or

24 (2) the debtor has entered into a payment plan with the  
25 contractor and is not delinquent.

26 (c) If a contractor is unable to recover an obligation, the  
27 contractor, subject to approval by the referring state agency, may

1 forward the obligation to a collection agency. A collection agency  
2 that is forwarded an obligation under this subsection may impose an  
3 additional collection charge to the obligation.

4 Sec. 2107.058. ALLOCATION, REMITTANCE, AND DEPOSIT OF  
5 COLLECTED AMOUNTS. (a) A contractor shall remit any money  
6 recovered from a debtor, less the cost recovery fee, to the  
7 comptroller not later than the 30th day after the last day of the  
8 month in which the contractor recovered the money from the debtor.

9 (b) The comptroller shall deposit any money a contractor  
10 remits under Subsection (a) to the credit of the foundation school  
11 fund.

12 (c) If a contractor collects on a referred obligation in an  
13 amount that is less than the total amount owed on the obligation,  
14 including the cost recovery fee, the amount collected is allocated  
15 proportionally between:

16 (1) the total amount of the referred obligation; and

17 (2) the cost recovery fee.

18 (d) If more than one obligation owed by the same debtor is  
19 referred to a contractor, amounts the contractor collects from the  
20 debtor are allocated to each referred obligation and cost recovery  
21 fee imposed in the order in which the obligations were referred to  
22 the contractor. If the obligations were referred concurrently,  
23 amounts the contractor collects from the debtor shall be allocated  
24 proportionally between each referred obligation and cost recovery  
25 fee.

26 Sec. 2107.059. RULES. The attorney general may adopt rules  
27 necessary to implement this subchapter.

1       Sec. 2107.060. REPORT. (a) Not later than October 1 of  
2 each year, the attorney general shall provide a report to the  
3 legislature regarding:

4           (1) the collection of referred obligations by a  
5 contractor under this subchapter during the preceding fiscal year;  
6 and

7           (2) any recommendations to improve or enhance the  
8 pilot program created under this subchapter.

9       (b) A contractor shall maintain any information necessary  
10 to allow for statistical measurements and evaluations of the  
11 operation of the obligation recovery pilot program under this  
12 subchapter.

13       SECTION 3. Not later than March 1, 2020, the attorney  
14 general shall contract with one or more entities to create the  
15 delinquent state obligation recovery pilot program, as provided  
16 under Subchapter B, Chapter 2107, Government Code, as added by this  
17 Act.

18       SECTION 4. This Act takes effect immediately if it receives  
19 a vote of two-thirds of all the members elected to each house, as  
20 provided by Section 39, Article III, Texas Constitution. If this  
21 Act does not receive the vote necessary for immediate effect, this  
22 Act takes effect on the 91st day after the last day of the  
23 legislative session.