

CHAPTER 179

GOVERNMENT - STATE

HOUSE BILL 97-1207

BY REPRESENTATIVE Faatz;
also SENATOR Hopper.

AN ACT

CONCERNING THE WITHHOLDING OF APPROVED DISBURSEMENTS BY THE CONTROLLER OF CERTAIN DELINQUENT DEBTS OWED BY VENDORS, AND MAKING APPROPRIATIONS IN CONNECTION THEREWITH.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 24-30-202 (1), Colorado Revised Statutes, 1988 Repl. Vol., is amended to read:

24-30-202. Procedures - vouchers and warrants - rules - penalties. (1) No disbursements shall be made in payment of any liability incurred on behalf of the state, other than from petty cash, unless there has been previously filed with the division of accounts and control a commitment voucher. The commitment voucher may be in the form of an advice of employment, a purchase order, a copy of a contract, or a travel authorization or in other form appropriate to the type of transaction as prescribed by the controller. Any state contract involving the payment of money by the state shall contain a clause providing that the contract shall not be deemed valid until it has been approved by the controller or such assistant as he may designate. SUCH CONTRACTS ENTERED INTO ON OR AFTER JULY 1, 1997, SHALL ALSO CONTAIN A CLAUSE NOTIFYING THE OTHER PARTY TO THE CONTRACT OF THE CONTROLLER'S AUTHORITY TO WITHHOLD DEBTS OWED TO STATE AGENCIES UNDER THE VENDOR OFFSET INTERCEPT SYSTEM PURSUANT TO SECTION 24-30-202.4 (3.5) (a) (I), AND THE TYPES OF DEBTS THAT ARE SUBJECT TO WITHHOLDING UNDER SAID SYSTEM. The form and content of and procedures for filing such vouchers shall be prescribed by the fiscal rules promulgated by the controller.

SECTION 2. 24-30-202.4, Colorado Revised Statutes, 1988 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

24-30-202.4. Collection of debts due state - controller's duties - creation of debt collection fund. (3.5) (a) (I) THE CONTROLLER SHALL APPROVE

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

DISBURSEMENTS FROM STATE FUNDS FROM THE STATE'S CENTRAL ACCOUNTING SYSTEM IN ACCORDANCE WITH THE PROVISIONS OF SECTION 24-30-202 (2). IF THE CONTROLLER FINDS THAT THERE IS AN UNPAID BALANCE OR DEBT OWING TO STATE AGENCY CLAIMANTS FOR ANY OF THE FOLLOWING, THE CONTROLLER, UPON NOTICE OF WITHHOLDING TO THE PAYEE, SHALL WITHHOLD THE AMOUNT OF THE DISBURSEMENT THAT DOES NOT EXCEED THE AMOUNT OF SUCH UNPAID BALANCE OR DEBT:

(A) ANY UNPAID CHILD SUPPORT DEBT AS SET FORTH IN SECTION 14-14-104, C.R.S., OR CHILD SUPPORT ARREARAGES THAT ARE THE SUBJECT OF ENFORCEMENT SERVICES PROVIDED PURSUANT TO SECTION 26-13-106, C.R.S., AS CERTIFIED BY THE DEPARTMENT OF HUMAN SERVICES;

(B) ANY UNPAID BALANCE OF TAX, ACCRUED INTEREST, OR OTHER CHARGES SPECIFIED IN ARTICLE 21 OF TITLE 39, C.R.S., THAT IS SUBJECT TO OFFSET UNDER SECTION 39-21-108 (3), C.R.S., AND OWING BY THE PAYEE ACCORDING TO THE RECORDS OF THE CONTROLLER;

(C) ANY UNPAID DEBT OWING TO THE STATE OR ANY AGENCY THEREOF BY SUCH PAYEE, THE AMOUNT OF WHICH IS FOUND TO BE OWING AS A RESULT OF A FINAL AGENCY DETERMINATION OR THE AMOUNT OF WHICH HAS BEEN REDUCED TO JUDGMENT AS CERTIFIED BY THE CONTROLLER;

(D) ANY UNPAID LOAN DUE TO THE STUDENT LOAN DIVISION OF THE DEPARTMENT OF HIGHER EDUCATION AS SET FORTH IN SECTION 23-3.1-104 (1) (p), C.R.S., FOUND TO BE OWING TO SUCH DIVISION BY SUCH PAYEE AS A RESULT OF FINAL AGENCY DETERMINATION; OR

(E) ANY AMOUNT REQUIRED TO BE PAID TO THE UNEMPLOYMENT COMPENSATION FUND PURSUANT TO ARTICLES 70 TO 82 OF TITLE 8, C.R.S., THE AMOUNT OF WHICH HAS BEEN DETERMINED TO BE OWING AS A RESULT OF A FINAL AGENCY DETERMINATION OR JUDICIAL DECISION OR THAT HAS BEEN REDUCED TO JUDGMENT BY THE DIVISION OF EMPLOYMENT AND TRAINING IN THE DEPARTMENT OF LABOR AND EMPLOYMENT AND SUCH AMOUNT HAS BEEN REFERRED TO THE CONTROLLER FOR COLLECTION PURSUANT TO SECTION 8-79-102 (2), C.R.S.

(II) ANY MONEYS WITHHELD FOR PAYMENT OF CHILD SUPPORT DEBT OR CHILD SUPPORT ARREARAGES PURSUANT TO SUBPARAGRAPH (I) OF THIS PARAGRAPH (a) SHALL BE DEPOSITED WITH THE STATE TREASURER FOR DISBURSEMENT BY THE DEPARTMENT OF HUMAN SERVICES. FOR ALL NAMES AND AMOUNTS CERTIFIED BY THE DEPARTMENT OF HUMAN SERVICES PURSUANT TO SECTION 26-13-111, C.R.S., THE CONTROLLER SHALL PROVIDE TO THE DEPARTMENT OF HUMAN SERVICES THE PAYEES' NAMES AND ASSOCIATED AMOUNTS DEPOSITED WITH THE STATE TREASURER PURSUANT TO THIS SUBPARAGRAPH (II) AND ANY OTHER IDENTIFYING INFORMATION AS REQUIRED BY THE DEPARTMENT OF HUMAN SERVICES.

(III) ANY MONEYS WITHHELD FOR PAYMENT OF AN UNPAID BALANCE OF TAX, INTEREST, OR OTHER CHARGES SPECIFIED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (a) AND SUBJECT TO OFFSET UNDER SECTION 39-21-108 (3), C.R.S., SHALL BE DEPOSITED WITH THE STATE TREASURER. FOR ALL NAMES AND AMOUNTS SUBMITTED BY THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REVENUE PURSUANT TO

SECTION 39-21-114 (10), C.R.S., THE CONTROLLER SHALL PROVIDE TO SAID DEPARTMENT THE PAYEES' NAMES AND ASSOCIATED AMOUNTS DEPOSITED WITH THE STATE TREASURER PURSUANT TO THIS SUBPARAGRAPH (III).

(IV) ANY MONEYS WITHHELD FOR PAYMENT OF AN UNPAID DEBT OWING TO THE STATE PURSUANT TO SUBPARAGRAPH (I) OF THIS PARAGRAPH (a) SHALL BE DEPOSITED WITH THE STATE TREASURER. FOR ALL NAMES AND AMOUNTS CERTIFIED BY THE CENTRAL COLLECTIONS UNIT PURSUANT TO THIS SECTION, THE CONTROLLER SHALL PROVIDE TO THE CENTRAL COLLECTIONS UNIT THE PAYEES' NAMES AND ASSOCIATED AMOUNTS DEPOSITED WITH THE STATE TREASURER PURSUANT TO THIS SUBPARAGRAPH (IV).

(V) ALL MONEYS WITHHELD FOR PAYMENT OF A STUDENT LOAN DIVISION DEBT PURSUANT TO SUBPARAGRAPH (I) OF THIS PARAGRAPH (a) SHALL BE DEPOSITED WITH THE STATE TREASURER FOR DISBURSEMENT BY THE STATE TREASURER TO THE DIVISION. FOR ALL NAMES AND AMOUNTS CERTIFIED BY THE DIVISION PURSUANT TO SECTION 23-3.1-104 (1) (q), C.R.S., THE CONTROLLER SHALL PROVIDE TO THE DIVISION THE PAYEES' NAMES AND ASSOCIATED AMOUNTS DEPOSITED WITH THE STATE TREASURER PURSUANT TO THIS SUBPARAGRAPH (V).

(VI) ANY MONEYS WITHHELD FOR PAYMENT OF UNEMPLOYMENT COMPENSATION DEBT PURSUANT TO SUBPARAGRAPH (I) OF THIS PARAGRAPH (a) SHALL BE DEPOSITED WITH THE STATE TREASURER AND CREDITED TO THE UNEMPLOYMENT COMPENSATION FUND. FOR ALL NAMES AND AMOUNTS CERTIFIED BY THE DIVISION OF EMPLOYMENT AND TRAINING PURSUANT TO SECTION 8-79-102 (2), C.R.S., THE CONTROLLER SHALL PROVIDE TO SAID DIVISION THE PAYEES' NAMES AND ASSOCIATED AMOUNTS DEPOSITED WITH THE STATE TREASURER PURSUANT TO THIS SUBPARAGRAPH (VI).

(VII) ANY APPROVED DISBURSEMENT IN EXCESS OF THE UNPAID BALANCE OR DEBT SHALL BE PAID TO THE APPROVED PAYEE.

(b) IN THE EVENT THAT THERE ARE DEBTS FOR UNPAID CHILD SUPPORT, AS SET FORTH IN SECTION 26-13-111, C.R.S., DEBTS FOR AN UNPAID BALANCE OF TAX, INTEREST, OR OTHER CHARGES PURSUANT TO ARTICLE 21 OF TITLE 39, C.R.S., AND OTHER DEBTS OWING TO THE STATE OR ANY AGENCY THEREOF AS SET FORTH IN SUBPARAGRAPH (I) OF PARAGRAPH (a) OF THIS SUBSECTION (3.5), THE AMOUNT WITHHELD PURSUANT TO SUBPARAGRAPH (I) OF PARAGRAPH (a) OF THIS SUBSECTION (3.5) SHALL BE CREDITED TO THE UNPAID DEBTS AND SHALL BE APPLIED FIRST TO THOSE UNPAID DEBTS IN THE ORDER THEY APPEAR IN THIS PARAGRAPH (b), AND ANY REMAINING AMOUNTS SHALL BE PRORATED AMONG OTHER UNPAID DEBTS WITHHELD PURSUANT TO SUBPARAGRAPH (I) OF PARAGRAPH (a) OF THIS SUBSECTION (3.5) ON THE BASIS OF THE RATIO OF THE AMOUNT OF EACH SUCH REMAINING UNPAID DEBT AS COMPARED TO THE TOTAL AMOUNT OF THE REMAINING UNPAID DEBTS.

(c) THE CONTROLLER SHALL CHARGE FOR DISBURSEMENTS WITHHELD PURSUANT TO SUBPARAGRAPH (I) OF PARAGRAPH (a) OF THIS SUBSECTION (3.5) AND SHALL CREDIT AMOUNTS SO COLLECTED TO THE VENDOR OFFSET IMPLEMENTATION FUND, WHICH FUND IS HEREBY CREATED IN THE STATE TREASURY. THE AMOUNT OF SUCH CHARGES SHALL BE NEGOTIATED BY THE CONTROLLER WITH DEPARTMENTS USING THE VENDOR OFFSET INTERCEPT SYSTEM.

SECTION 3. Article 13 of title 26, Colorado Revised Statutes, 1989 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SECTION to read:

26-13-111.5. State vendor payment offset. (1) AT ANY TIME PRESCRIBED BY THE CONTROLLER, BUT NOT LESS FREQUENTLY THAN ANNUALLY, THE STATE DEPARTMENT SHALL CERTIFY TO THE CONTROLLER INFORMATION REGARDING PERSONS WHO OWE CHILD SUPPORT DEBT PURSUANT TO SECTION 14-14-104, C.R.S., OR WHO OWE CHILD SUPPORT ARREARAGES AS REQUESTED AS PART OF AN ENFORCEMENT ACTION UNDER ARTICLE 5 OF TITLE 14, C.R.S., OR WHO OWE CHILD SUPPORT ARREARAGES THAT ARE THE SUBJECT OF ENFORCEMENT SERVICES PROVIDED UNDER SECTION 26-13-106.

(2) UPON NOTIFICATION BY THE CONTROLLER OF AMOUNTS DEPOSITED WITH THE STATE TREASURER PURSUANT TO SECTION 24-30-202.4, C.R.S., THE STATE DEPARTMENT SHALL DISBURSE SUCH AMOUNTS TO THE APPROPRIATE COUNTY FOR PROCESSING AND DISTRIBUTION TO THE FEDERAL, STATE, OR LOCAL AGENCY TO WHOM THE PERSON IS OBLIGATED.

(3) THE STATE DEPARTMENT SHALL PROMULGATE RULES ESTABLISHING PROCEDURES TO IMPLEMENT THIS SECTION PURSUANT TO ARTICLE 4 OF TITLE 24, C.R.S.

(4) THE LAST-KNOWN ADDRESSES AND SOCIAL SECURITY NUMBERS OF PERSONS SUBJECT TO THE VENDOR PAYMENT OFFSET, PROVIDED TO THE STATE DEPARTMENT BY THE CONTROLLER, SHALL BE SENT TO THE RESPECTIVE COUNTY DEPARTMENTS OR THE FOOD STAMP DISTRICT ADMINISTERED BY THE STATE DEPARTMENT.

SECTION 4. 23-3.1-104 (1), Colorado Revised Statutes, 1995 Repl. Vol., is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

23-3.1-104. Duties and powers of division. (1) The division shall:

(q) (I) AT LEAST QUARTERLY, CERTIFY TO THE CONTROLLER INFORMATION REGARDING PERSONS WHO OWE A LOAN REPAYMENT TO THE DIVISION.

(II) SUCH INFORMATION SHALL INCLUDE THE NAME AND SOCIAL SECURITY NUMBER OF THE PERSON OWING THE DEBT, THE AMOUNT OF THE DEBT, AND ANY OTHER IDENTIFYING INFORMATION REQUIRED BY THE CONTROLLER.

(III) UPON NOTIFICATION BY THE CONTROLLER TO THE STATE AGENCY OF AMOUNTS DEPOSITED WITH THE STATE TREASURER PURSUANT TO SECTION 24-30-202.4 (3.5) (a) (V), C.R.S., THE STATE TREASURER SHALL DISBURSE SUCH AMOUNTS TO THE DIVISION.

SECTION 5. 39-21-114, Colorado Revised Statutes, 1994 Repl. Vol., is amended BY THE ADDITION OF A NEW SUBSECTION to read:

39-21-114. Methods of enforcing collection. (10) (a) THE EXECUTIVE DIRECTOR IS AUTHORIZED TO ENTER INTO AN AGREEMENT WITH THE CONTROLLER FOR THE PURPOSE OF COLLECTING DELINQUENT STATE TAXES THROUGH THE VENDOR OFFSET PROGRAM ESTABLISHED PURSUANT TO SECTION 24-30-202.4 (3.5) (a), C.R.S.

(b) EACH AGREEMENT ENTERED INTO WITH THE CONTROLLER SHALL SPECIFY THAT FEES FOR SERVICES RENDERED SHALL BE BASED ON THE TOTAL AMOUNT OF DELINQUENT TAXES, INCLUDING ACCRUED PENALTIES AND INTEREST, THAT IS ACTUALLY COLLECTED THROUGH THE VENDOR OFFSET PROGRAM ESTABLISHED PURSUANT TO SECTION 24-30-202.4 (3.5) (a), C.R.S.

(c) THE CONTROLLER SHALL, PURSUANT TO AGREEMENT, REMIT THE TOTAL AMOUNT ACTUALLY OFFSET FROM A VENDOR'S ACCOUNT PURSUANT TO SECTION 24-30-202.4 (3.5) (a), LESS FEES FOR SERVICES RENDERED AND ALLOWABLE COSTS, TO THE EXECUTIVE DIRECTOR WITHIN THIRTY DAYS AFTER THE DATE THE MONEYS ARE OFFSET FROM THE VENDOR'S ACCOUNT.

SECTION 6. Loan authorized - appropriation. (1) For the purposes of implementing this act prior to sufficient moneys becoming available in the vendor offset implementation fund created pursuant to section 24-30-202.4(3.5)(c), Colorado Revised Statutes, the controller is authorized to borrow from the general fund in an amount up to four hundred thousand dollars (\$400,000) during the fiscal year beginning July 1, 1997, and said moneys shall be appropriated to the vendor offset implementation fund. Any such borrowed moneys shall be repaid without interest when the reserve fund balance is such that repayment can be made without jeopardy to such fund.

(2) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the vendor offset implementation fund not otherwise appropriated, to the department of personnel for allocation to accounts and control, for the fiscal year beginning July 1, 1997, the sum of four hundred thousand dollars (\$400,000), or so much thereof as may be necessary, for the implementation of this act.

SECTION 7. Effective date. This act shall take effect July 1, 1997.

SECTION 8. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: May 21, 1997