

CHAPTER 296

GOVERNMENT - STATE

SENATE BILL 13-247

BY SENATOR(S) Heath;
also REPRESENTATIVE(S) Court, Hullinghorst, Schafer.**AN ACT**

CONCERNING THE COLLECTION OF DEBT OWED TO GOVERNMENTAL ENTITIES, AND, IN CONNECTION THEREWITH, SPECIFYING PROCEDURAL REQUIREMENTS FOR OFFSETTING SUCH DEBTS AGAINST STATE TAX REFUNDS AND AUTHORIZING THE STATE TO ENTER INTO RECIPROCAL DEBT COLLECTION AGREEMENTS WITH THE FEDERAL GOVERNMENT AND OTHER STATES.

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

SECTION 1. In Colorado Revised Statutes, 24-30-202.4, **amend** (2.5); and **add** (10) as follows:

24-30-202.4. Collection of debts due the state - controller's duties - creation of debt collection fund - definitions - reciprocal debt collection agreements.

(2.5) (a) The department of personnel may provide debt collection services, INCLUDING LOTTERY OFFSETS, LIMITED GAMING OFFSETS, AND STATE TAX REFUND OFFSETS, for ACCOUNTS ASSIGNED TO CENTRAL COLLECTION SERVICES BY political subdivisions of the state UNDER CONTRACT WITH CENTRAL COLLECTION SERVICES. The provisions of this section governing the time for referral of accounts to private collection agencies, write off, release, or compromise of debts ~~shall~~ DOES not govern the debt collection services provided to political subdivisions except as agreed between the department and such political subdivisions or state agencies and institutions.

(b) UPON VERIFICATION BY THE APPROPRIATE STATE AGENCY, STATE-SUPPORTED INSTITUTION OF HIGHER EDUCATION, OR POLITICAL SUBDIVISION OF THE STATE OF THE AMOUNT OF A DEBT DUE THE STATE, INSTITUTION, OR POLITICAL SUBDIVISION, THE STATE CONTROLLER MAY CERTIFY TO THE DEPARTMENT OF REVENUE ANY UNPAID DEBT TO BE OFFSET AGAINST A TAX REFUND DUE THE DEBTOR PURSUANT TO SECTION 39-21-108 (3), C.R.S. BEFORE CERTIFYING AN UNPAID DEBT TO THE DEPARTMENT OF REVENUE, THE STATE CONTROLLER SHALL GIVE WRITTEN NOTICE

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

TO THE DEBTOR THAT THE DEBT WILL BE OFFSET AGAINST A TAX REFUND DUE THE DEBTOR AND THAT THE DEBTOR MAY, WITHIN THIRTY DAYS OF THE POSTMARK OF THE WRITTEN NOTICE, REQUEST A HEARING TO DISPUTE THE TAX REFUND OFFSET. SUCH A HEARING MUST BE HELD WITHIN THIRTY CALENDAR DAYS FOLLOWING RECEIPT OF THE REQUEST FROM THE DEBTOR. IF THE AGENCY, INSTITUTION, OR POLITICAL SUBDIVISION THAT REFERRED THE DEBT TO THE CONTROLLER CERTIFIES THAT THE DEBT WAS THE SUBJECT OF A FINAL AGENCY DETERMINATION OR JUDICIAL DECISION OR THAT THE DEBT HAS BEEN REDUCED TO JUDGMENT, THE DEBTOR MAY NOT DISPUTE THE VALIDITY OF THE DEBT AT THE HEARING. IF, AT THE HEARING, THE DISPUTE IS RESOLVED IN FAVOR OF THE DEBTOR, THE DEBTOR IS ENTITLED TO A REFUND OF ANY MONEY DUE PLUS INTEREST, IF REQUESTED, PURSUANT TO SECTIONS 39-21-110 AND 39-21-110.5, C.R.S. THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF PERSONNEL SHALL PROMULGATE RULES, IN ACCORDANCE WITH ARTICLE 4 OF THIS TITLE, THAT SPECIFY PROVISIONS FOR ADEQUATE NOTICE AND OPPORTUNITY FOR HEARING. THE STATE CONTROLLER MAY WRITE OFF, RELEASE, OR COMPROMISE, ANY DEBT AS AUTHORIZED BY PARAGRAPH (c) OF SUBSECTION (3) OF THIS SECTION.

(10) (a) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, AND PURSUANT TO 31 U.S.C. SEC. 3716 (b) AND (h) (1), THE DEPARTMENT OF PERSONNEL, AT THE REQUEST OF ANY EXECUTIVE, JUDICIAL, OR LEGISLATIVE BRANCH AGENCY OF THE STATE, STATE-SUPPORTED INSTITUTION OF HIGHER EDUCATION, OR POLITICAL SUBDIVISION OF THE STATE, MAY ENTER INTO A RECIPROCAL AGREEMENT WITH THE UNITED STATES GOVERNMENT TO OFFSET:

(I) THE CLAIM OF ANY PERSON AGAINST THE STATE, INCLUDING ANY STATE TAX REFUND TO WHICH THE PERSON MAY BE ENTITLED, TO ANY DEBT OF THE PERSON OWED TO THE UNITED STATES GOVERNMENT THAT THE UNITED STATES GOVERNMENT HAS CERTIFIED AS FINAL, DUE, AND OWING, WITH ALL APPEALS AND LEGAL ACTIONS HAVING BEEN WAIVED OR EXHAUSTED; AND

(II) ANY NONTAX CLAIM OF ANY PERSON AGAINST THE UNITED STATES GOVERNMENT TO ANY LIQUIDATED DEBT OF THE PERSON OWED TO THE STATE. ANY FEES ASSOCIATED WITH ANY OFFSET OF FEDERAL MONEYS WILL BE DEDUCTED BY THE UNITED STATES GOVERNMENT FROM THE AMOUNT OF MONEYS OFFSET, WHICH MAY THEN BE ADDED TO THE BALANCE OF THE DEBT OWED, BUT ANY FEES ASSOCIATED WITH ANY OFFSET OF STATE MONEYS WILL NOT BE CHARGED TO THE UNITED STATES GOVERNMENT.

(b) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE DEPARTMENT OF PERSONNEL, AT THE REQUEST OF ANY EXECUTIVE, JUDICIAL, OR LEGISLATIVE BRANCH AGENCY, STATE-SUPPORTED INSTITUTION OF HIGHER EDUCATION, OR POLITICAL SUBDIVISION OF THE STATE, MAY ENTER INTO A RECIPROCAL AGREEMENT WITH ANY STATE TO OFFSET:

(I) THE CLAIM OF ANY PERSON AGAINST THE STATE TO ANY DEBT OF THE PERSON OWED TO ANY STATE THAT HAS CERTIFIED THE DEBT AS FINAL, DUE, AND OWING, WITH ALL APPEALS AND LEGAL ACTIONS HAVING BEEN WAIVED OR EXHAUSTED; AND

(II) ANY CLAIM OF ANY PERSON AGAINST ANY STATE TO ANY LIQUIDATED DEBT OF THE PERSON OWED TO THE STATE.

(c) IF MULTIPLE CREDITORS HAVE CERTIFIED LIQUIDATED DEBT AGAINST THE SAME PERSON ON A CLAIM AGAINST THE STATE PURSUANT TO THIS SECTION, THE DEBTS OF THE STATE, ANY STATE-SUPPORTED INSTITUTION OF HIGHER EDUCATION, OR ANY POLITICAL SUBDIVISION OF THE STATE SHALL BE CREDITED FIRST IN THE PRIORITY ESTABLISHED IN PARAGRAPH (b) OF SUBSECTION (3.5) OF THIS SECTION, WITH THE UNDERSTANDING THAT ANY STATE AGENCY OR STATE-SUPPORTED INSTITUTION OF HIGHER EDUCATION DEBT WILL BE PAID FIRST BEFORE ANY DEBT FOR A POLITICAL SUBDIVISION OF THE STATE ASSIGNED TO CENTRAL COLLECTION SERVICES. IF THERE IS ANY BALANCE DUE THE CLAIMANT AFTER SETTLING THE WHOLE DEMANDS OF THE STATE, ANY EXECUTIVE, JUDICIAL, OR LEGISLATIVE BRANCH AGENCY OF THE STATE, ANY STATE-SUPPORTED INSTITUTION OF HIGHER EDUCATION, AND ANY POLITICAL SUBDIVISION OF THE STATE, THE BALANCE SHALL BE CREDITED TO THE LIQUIDATED DEBTS CERTIFIED BY THE UNITED STATES GOVERNMENT AND THEN TO THE LIQUIDATED DEBTS CERTIFIED BY ANY OTHER STATE IN THE ORDER IN WHICH THE CLAIMS WERE FILED WITH THE STATE TREASURER. IF THERE IS A BALANCE DUE THE CLAIMANT AFTER SATISFACTION OF ALL LIQUIDATED DEBTS AS ITEMIZED IN THIS SECTION AND ANY COURT-ORDERED PAYMENTS, THE BALANCE SHALL BE PAID TO THE CLAIMANT.

SECTION 2. In Colorado Revised Statutes, 24-30-202.7, **amend** (1) (b) as follows:

24-30-202.7. Lottery winnings offset - definitions. (1) As used in this section, unless the context otherwise requires:

(b) "Outstanding debt" means any unpaid debt due to the state that is referred pursuant to section 24-30-202.4 (2) to the state controller or the central collection services section of the division of finance and procurement, or any successor section, in the department of personnel, including the collection fee and any allowable fees and costs pursuant to section 24-30-202.4 (8). "Outstanding debt" ~~does not include~~ INCLUDES any debt collected by the department of personnel for a political subdivision of the state UNDER CONTRACT WITH CENTRAL COLLECTION SERVICES, WITH THE UNDERSTANDING THAT ANY STATE AGENCY OR STATE-SUPPORTED INSTITUTION OF HIGHER EDUCATION DEBT WILL BE PAID BEFORE ANY DEBT FOR A POLITICAL SUBDIVISION OF THE STATE ASSIGNED TO CENTRAL COLLECTION SERVICES.

SECTION 3. In Colorado Revised Statutes, 24-35-605, **amend** (2) (b) (V) as follows:

24-35-605. Payments - limited gaming and pari-mutuel wagering licensees - procedures. (2) (b) If the registry operator replies that the winner is listed in the registry:

(V) The department of human services shall process moneys received from the registry operator pursuant to subparagraph (IV) of this paragraph (b) in accordance with section 26-13-118.7, C.R.S. The judicial department shall process moneys received from the registry operator pursuant to subparagraph (IV) of this paragraph (b) in accordance with the rules of the department. THE DEPARTMENT OF PERSONNEL SHALL PROCESS MONEYS RECEIVED FROM THE REGISTRY OPERATOR PURSUANT TO SUBPARAGRAPH (IV) OF THIS PARAGRAPH (b) IN ACCORDANCE WITH THE RULES OF

THE DEPARTMENT OF PERSONNEL, WITH THE UNDERSTANDING THAT ANY STATE AGENCY OR STATE-SUPPORTED INSTITUTION OF HIGHER EDUCATION DEBT WILL BE PAID BEFORE ANY DEBT FOR A POLITICAL SUBDIVISION OF THE STATE ASSIGNED TO CENTRAL COLLECTION SERVICES.

SECTION 4. In Colorado Revised Statutes, 39-21-108, **amend** (3) (a) (I) (A) as follows:

39-21-108. Refunds. (3) (a) (I) (A) Whenever it is established that any taxpayer has, for any period open under the statutes, overpaid a tax covered by articles 22 and 26 to 29 of this title, article 60 of title 34, C.R.S., and article 3 of title 42, C.R.S., and that: There is an unpaid balance of tax and interest accrued, according to the records of the executive director, owing by such taxpayer for any other period; there is an amount required to be repaid to the unemployment compensation fund pursuant to section 8-81-101 (4), 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 unemployment insurance in the department of labor and employment; there is 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; there are any unpaid obligations owing to the state as set forth in section 26-2-133, C.R.S., for overpayment of public assistance or medical assistance benefits, the amount of which has been determined to be owing as a result of final agency determination or judicial decision or that has been reduced to judgment, as certified by the department of human services; there is any unpaid loan or other obligation due to a state-supported institution of higher education as set forth in section 23-5-115, 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, as certified by the appropriate institution; there is 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., 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, as certified by the division; there is any unpaid loan due to the collegeinvest division of the department of higher education as set forth in section 23-3.1-206, 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; there is any outstanding judicial fine, fee, cost, or surcharge as set forth in section 16-11-101.8, C.R.S., or judicial restitution as set forth in section 16-18.5-106.8, C.R.S., the amount of which has been determined to be owing as a result of a final judicial department determination or certified by the judicial department as a judgment owed the state or a victim; there is any unpaid debt owing to the state or any agency thereof by such taxpayer, and that is found to be owing as a result of a final agency determination or the amount of which has been reduced to judgment and as certified by the controller; or the taxpayer is a qualified individual identified pursuant to section 39-22-120 (10) or 39-22-2003 (9), so much of the overpayment of tax plus interest allowable thereon as does not exceed the amount of such unpaid balance or unpaid debt must be credited first to the unpaid balance of tax and interest accrued and then to the unpaid debt, and any excess of the overpayment must be refunded. If the taxpayer elects to designate his or her refund as a credit against a subsequent year's tax liability, the amount allowed to be so credited must be reduced first by the

unpaid balance of tax and interest accrued and then by the unpaid debt. If the taxpayer filed a joint return, the executive director shall notify the taxpayer's spouse that the portion of the overpayment that is generated by the spouse's income will be refunded upon receipt of a request detailing said amount. As used in this section, unless the context otherwise requires, "agency" includes A state-supported ~~institutions~~ INSTITUTION of higher education OR A POLITICAL SUBDIVISION OF THE STATE UNDER CONTRACT WITH CENTRAL COLLECTION SERVICES.

SECTION 5. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 7, 2013, if adjournment sine die is on May 8, 2013); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2014 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Approved: May 28, 2013