

HOUSE BILL NO. HB0145

State obligation recovery.

Sponsored by: Representative(s) Burkhardt

A BILL

for

1 AN ACT relating to the administration of government;
2 creating the state obligation recovery division within the
3 office of the state auditor; authorizing the state
4 obligation recovery division to collect obligations due to
5 the state and other governmental entities; authorizing a
6 court to suspend or revoke an obligor's driver's license or
7 an obligor's professional, occupational or recreational
8 license as specified; authorizing the attorney general to
9 bring an action in the name of the state and to seek a writ
10 of garnishment; providing for personal liability
11 obligations due to the state as specified; providing a
12 conflict of law provision; providing definitions; providing
13 rulemaking authority; creating an account; authorizing
14 positions as specified; providing appropriations; providing
15 applicability; and providing for effective dates.

16

1 *Be It Enacted by the Legislature of the State of Wyoming:*

2

3 **Section 1.** W.S. 9-1-418 through 9-1-423 are created
4 to read:

5

6 **9-1-418. State obligation recovery division;**
7 **definitions.**

8

9 (a) As used in this act:

10

11 (i) "Division" means the state obligation
12 recovery division within the office of the state auditor;

13

14 (ii) "Governmental entity" means a city, town,
15 county, school district, special taxing district or
16 community college district;

17

18 (iii) "Obligation" means any amount due to any
19 governmental entity or the state for which payment has not
20 been received and shall include debts, unpaid fees, taxes,
21 including any tax collected by the department of revenue,
22 loans, overpayments, fines, judgements, forfeitures,
23 surcharges, costs, interest, penalties and damages;

1

2 (iv) "Obligor" means a person who owes or is
3 responsible for any obligation due to the state or any
4 governmental entity;

5

6 (v) "Past due" means any obligation the state
7 has not received by the payment due date;

8

9 (vi) "State" means the state of Wyoming or any
10 of its branches, offices, agencies, departments, boards,
11 instrumentalities or institutions, excluding the University
12 of Wyoming;

13

14 (vii) "This act" means W.S. 9-1-418 through
15 9-1-423.

16

17 **9-1-419. State obligation recovery division;**
18 **administrative duties.**

19

20 (a) The state obligation recovery division is created
21 within the office of the state auditor. The division
22 shall:

23

1 (i) Collect obligations due to the state or
2 assist in the collection of obligations due to any
3 governmental entity;
4

5 (ii) Have authority to enter into agreements
6 with obligors to provide for the payment of an obligation
7 on an installment basis over a twelve (12) month or lesser
8 period. Upon good cause shown by the obligor, the state
9 obligation recovery division may extend the period during
10 which the installment payments may be made for more than a
11 twelve (12) month period;
12

13 (iii) Have authority to enter into contracts to
14 use the services of a collection agency licensed in Wyoming
15 to assist in the collection of debts due the state;
16

17 (iv) Promulgate rules consistent with this act
18 governing the accounting, reporting, collection and
19 management of obligations due to the state or any
20 governmental entity;
21

1 (v) Prepare quarterly and annual reports of the
2 obligations due to the state or any governmental entity as
3 provided by W.S. 9-1-423(c);
4

5 (vi) Establish standard time limits after which
6 the state shall refer an obligation to the division for
7 collection;
8

9 (vii) Establish standard time limits after which
10 any governmental entity may refer an obligation to the
11 division for collection;
12

13 (viii) Be a real party in interest for any
14 obligation referred to the division by the state or any
15 governmental entity.
16

17 (b) The state auditor shall appoint an administrative
18 head of the division who shall be licensed as provided in
19 W.S. 33-11-102 and who shall carry out the statutory duties
20 and any other duties as assigned by the state auditor for
21 the purposes of this act.
22

1 (c) In collecting obligations under this act, the
2 division may:

3
4 (i) Petition a court of competent jurisdiction
5 for a judicial determination that an obligation due to the
6 state or governmental entity is in arrears and seek a court
7 order to withhold, suspend or restrict the obligor's
8 driver's license as provided in W.S. 9-1-420 or an
9 obligor's professional, occupational or recreational
10 license, certificate or permit as provided in W.S. 9-1-421;

11
12 (ii) Request the attorney general bring an
13 action in the name of the state to collect any past due
14 obligations due to the state. The attorney general may
15 seek a writ of garnishment pursuant to W.S. 1-15-401
16 through 1-15-425 to collect an obligation owed to the
17 state;

18
19 (iii) File a lien against the property of the
20 obligor pursuant to Wyoming statutes or pursue any other
21 remedy against the obligor otherwise provided by law.

22

1 **9-1-420. State obligation recovery division; driver's**
2 **license suspension.**

3
4 (a) A district court, on motion of the division,
5 shall conduct a hearing to determine if an obligation of
6 more than five hundred dollars (\$500.00) is due to the
7 state or other governmental entity. Upon adjudication that
8 an obligation of more than five hundred dollars (\$500.00)
9 is past due, the court shall issue an order directing the
10 department of transportation to withhold, suspend or
11 restrict the driver's license, as defined in W.S.
12 31-7-102(a)(xxv), of the obligor if the obligor is an
13 individual or the sole proprietor of a business entity.
14 The order shall direct the department of transportation to
15 send, by certified mail, notice to the obligor at the
16 obligor's last known address of the driver's license
17 withholding, suspension or restriction. The notice shall
18 inform the obligor the withholding, suspension or
19 restriction shall remain in effect until the department of
20 transportation is notified by the division that the obligor
21 is in compliance with the court order or has entered into a
22 payment plan approved by the division.

23

1 (b) If at any time an obligor has complied with the
2 terms of the court order, or has entered into a payment
3 plan approved by the division, the division shall promptly
4 notify the department of transportation that the
5 withholding, suspension or restriction may be lifted and
6 the driver's license may be reinstated if the obligor is
7 otherwise eligible for reinstatement.

8
9 (c) Nothing in this section shall prohibit subsequent
10 orders to withhold, suspend or restrict an obligor's
11 driver's license if the obligor is again subject to the
12 provisions of this section.

13
14 (d) The division shall adopt rules to ensure notice
15 is provided in a timely manner to the department of
16 transportation that an obligor is in satisfactory
17 compliance with the court order under this section. Upon
18 receipt of the notice, the department of transportation
19 shall reinstate the license unless the license was
20 suspended or revoked for other reasons. The department of
21 transportation shall adopt rules to ensure the license is
22 reinstated promptly upon receipt of the notice.

23

1 (e) The discretion to modify any order of suspension
2 under this section to allow driving privileges is limited
3 as follows:

4

5 (i) A person whose driving privileges have been
6 suspended for nonpayment of an obligation owed to the state
7 or any governmental entity may be granted limited driving
8 privileges by the department of transportation for a period
9 not to exceed one hundred twenty (120) days;

10

11 (ii) A person granted limited driving privileges
12 under this subsection by the department of transportation
13 shall not be granted an extension of such privileges for
14 twelve (12) months after the limited driving privileges
15 expire unless the person has subsequently made full payment
16 on the obligation in arrears, or is in full compliance with
17 the division.

18

19 **9-1-421. State recovery obligation division;**
20 **professional, occupational or recreational license**
21 **suspension; notice and hearing.**

22

1 (a) A district court, on motion of the division,
2 shall conduct a hearing to determine if an obligation of
3 more than five hundred dollars (\$500.00) is due to the
4 state or other governmental entity. Upon adjudication that
5 an obligation of more than five hundred dollars (\$500.00)
6 is past due, the court shall:

7
8 (i) Determine whether the obligor has a
9 professional, occupational or recreational license,
10 certificate or permit that is subject to withholding,
11 suspension or restriction by the state of Wyoming;

12
13 (ii) Issue an order to withhold, suspend or
14 restrict the obligor's professional, occupational or
15 recreational license, certificate or permit unless the
16 obligor pays the obligation in full within thirty (30) days
17 of the order or enters into a payment plan approved by the
18 division. The order shall direct the appropriate licensing,
19 certifying or permitting agency, board or commission to
20 send, by certified mail, notice to the obligor at the
21 obligor's last known address of the license, certificate or
22 permit withholding, suspension or restriction. The notice
23 shall inform the obligor that the withholding, suspension

1 or restriction shall remain in effect until that agency,
2 board or commission is notified by the division that the
3 obligor is in compliance with the court order or has
4 entered into a payment plan approved by the division.

5
6 (b) If at any time an obligor has complied with the
7 terms of the court order or has entered into a payment plan
8 approved by the division, the division shall promptly
9 notify the licensing, certifying or permitting agency,
10 board or commission that the withholding, suspension or
11 restriction may be lifted and the license, certificate or
12 permit may be reinstated if the obligor is otherwise
13 eligible for reinstatement.

14
15 (c) Nothing in this section shall prohibit subsequent
16 orders to withhold, suspend or restrict the obligor's
17 professional, occupational or recreational license,
18 certificate or permit if the obligor is again subject to
19 the provisions of this section.

20
21 (d) The division shall adopt rules to ensure notice
22 is provided in a timely manner to any licensing, certifying
23 or permitting agency, board or commission that an obligor

1 is in satisfactory compliance with the court order under
2 this section. Upon receipt of the notice, the licensing,
3 certifying or permitting agency shall promptly reinstate
4 the license, certificate or permit unless the license,
5 certificate or permit was suspended or revoked for other
6 reasons.

7

8 **9-1-422. State obligations; liability of officers,**
9 **directors, partners and owners; conflict of law.**

10

11 (a) Any officer or director of a corporation, manager
12 of a limited liability company or partner of a partnership
13 having at least twenty percent (20%) ownership interest of
14 the corporation, limited liability company or partnership
15 or any owner of a sole proprietorship shall be personally
16 liable for an obligation due to the state of Wyoming from
17 the corporation, limited liability company, partnership or
18 sole proprietorship. Liability under this subsection shall:

19

20 (i) Survive dissolution, reorganization,
21 bankruptcy, receivership or assignment for the benefit of
22 creditors of or by the corporation, partnership, limited
23 liability company or sole proprietorship;

1

2 (ii) Be initially determined by the division.

3 The division's determination is final unless the person

4 determined to be liable requests a hearing on the

5 determination. The request for hearing shall be submitted

6 in writing to the division no later than fifteen (15) days

7 after the date notice of the determination is mailed to his

8 address or the address of the corporation, partnership,

9 limited liability company or sole proprietorship. The

10 hearing shall be conducted in accordance with the Wyoming

11 Administrative Procedure Act as a contested case before a

12 hearing examiner of the office of administrative hearings.

13 The hearing examiner shall recommend a decision to the

14 administrative head of the division. The administrative

15 head of the division shall confirm a determination of

16 liability only upon finding by a preponderance of the

17 evidence that grounds exist under this section for the

18 determination of liability.

19

20 (b) If the provisions of this section conflict with

21 any other provision of law in this state, the provisions of

22 this section shall control.

23

1 **9-1-423. State obligation recovery division; state**
2 **obligation recovery account; reports; confidentiality.**

3
4 (a) Except as provided in subsection (b) of this
5 section, all money received by the division pursuant to
6 W.S. 9-1-418 through 9-1-423 shall be deposited with the
7 state treasurer and credited to an account of the state or
8 any governmental entity from which the obligation
9 originated or to any other account as otherwise directed by
10 law.

11
12 (b) There is created the state obligation recovery
13 account. Notwithstanding any other provision of law,
14 twenty-five percent (25%) of the amounts collected by the
15 division pursuant to this act shall be credited to the
16 state obligation recovery account for administrative and
17 personnel costs. In the event that funds within the state
18 obligation recovery account exceed the anticipated annual
19 operating budget for the division for the next fiscal year,
20 funds in excess of the annual operating budget shall be
21 credited to the general fund.

22

1 (c) The division is intended to be self sustaining
2 and self funded. The division shall:

3

4 (i) Submit quarterly and annual reports to the
5 governor and the joint appropriations committee disclosing
6 the total amounts of obligations collected and the
7 administrative and personnel costs of the division during
8 the reporting period;

9

10 (ii) Submit to the governor and the joint
11 appropriations committee by June 30 of each year a copy of
12 the annual operating budget for the division for the next
13 fiscal year. This annual operating budget shall be on
14 forms as prescribed by the department of administration and
15 information.

16

17 (d) Documents, materials or other information in the
18 possession of or control of the division that are obtained
19 by or created by the division in collecting obligations due
20 to the state or any governmental entity shall be
21 confidential by law and privileged and shall not be subject
22 to the Wyoming Public Records Act.

23

1 **Section 2.** W.S. 9-1-415(a), (b)(intro), and (e),
2 16-4-502(a) and (b)(intro) and 39-15-107(b)(x) are amended
3 to read:

4
5 **9-1-415. Collection of debts due the state; discharge**
6 **of uncollectible debts.**

7
8 (a) Except as provided in subsections (e) and (f) of
9 this section, any office, ~~or~~ agency, department, board,
10 instrumentality or institution of the state, ~~may use the~~
11 ~~services of a collection agency licensed in Wyoming to~~
12 ~~assist in the collection of~~ or any of its branches, shall
13 report all past due debts due the state or any state office
14 or agency to the state obligation recovery division for
15 collection.

16
17 (b) Any debt due and owing the state or any ~~office or~~
18 ~~agency of the state~~ of its branches, offices, agencies,
19 departments, boards, instrumentalities or institutions,
20 which is determined to be uncollectible, shall be certified
21 to the state auditor by the chief administrative officer of
22 the agency to which the debt is due and the state

1 obligation recovery division. The certification shall
2 include:

3
4 (e) Before any billing for services, collections or
5 use of the services of ~~a collection agency~~ the state
6 obligation recovery division, state institutions shall
7 first make an administrative determination that all
8 statutory requirements relative to patient billing have
9 been followed in each case. In the case of those state
10 institutions defined by W.S. 25-11-101(a)(vii), the
11 decision of whether to ~~contract with a collection agency~~
12 use the services of the state obligation recovery division
13 shall be made by the department of health or the department
14 of family services pursuant to W.S. 25-11-106.

15
16 **16-4-502. Collection of debts due a governmental**
17 **entity; discharge of uncollectible debts.**

18
19 (a) The governing body of any governmental entity may
20 authorize the use of the services of ~~a collection agency~~
21 ~~licensed in Wyoming to assist~~ the state obligation recovery
22 division in the collection of debts due the governmental
23 entity.

1

2 (b) Any debt due and owing to a governmental entity,
3 which is determined to be uncollectible, shall be certified
4 to the governing body of the entity by the chief
5 administrative officer of the entity to which the debt is
6 due and, if applicable, the state obligation recovery
7 division. The certification shall include:

8

9 **39-15-107. Compliance; collection procedures.**

10

11 (b) Payment. The following shall apply:

12

13 (x) The department ~~may enter into contracts with~~
14 ~~collection agencies~~ shall use the services of the state
15 obligation recovery division for required collection
16 ~~services~~ on deficiencies of sales tax occurring under W.S.
17 39-15-101 through 39-15-111. ~~from and after the reporting~~
18 ~~period of January, 1989.~~ Any taxes collected by the
19 ~~collection agencies~~ state obligation recovery division
20 shall be distributed in accordance with W.S. 9-1-422 and
21 39-15-111 (b) ~~;~~. ~~There is continuously appropriated from the~~
22 ~~general fund, to the department, an amount equal to the~~
23 ~~cost of collection under each contract but not to exceed~~

~~fifty percent (50%) of the amounts collected by collection agencies, under a contract. The department shall expend those funds appropriated solely for collection agency services and may authorize in the contracts for those services that collection agency costs be deducted from funds collected and remitted to the department. The contracts entered into under this paragraph shall not be for a term of more than two (2) years and shall be awarded only after competition;~~

Section 3.

(a) Nothing in this act shall be construed to modify or impair any existing contracts for collection agency services executed by the state of Wyoming or any city, town, county, school district, special taxing district or community college district prior to January 1, 2017.

(b) The division of state obligation recovery shall promulgate rules necessary to implement this act on or before January 1, 2017.

1 **Section 4.** The office of state auditor is authorized
2 five (5) additional full-time permanent positions for the
3 state obligation recovery division.
4

5 **Section 5.**
6

7 (a) There is appropriated one million one hundred
8 fifty-six thousand seven hundred twenty-three dollars
9 (\$1,156,723.00) from the general fund to the state auditor
10 to implement the purposes of this act. This appropriation
11 shall be for the period beginning on July 1, 2016 and
12 ending June 30, 2017. Notwithstanding any other provision
13 of law, this appropriation shall not be transferred or
14 expended for any other purpose. Any unobligated funds
15 shall revert as provided by law on June 30, 2017.
16

17 (b) There is appropriated six hundred six thousand
18 six hundred eighteen dollars (\$606,618.00) from the state
19 obligation recovery account created by section 1 of this
20 act to the state auditor to implement the purposes of this
21 act for the period beginning on July 1, 2017 and ending
22 June 30, 2018. Notwithstanding any other provision of law,
23 this appropriation shall not be transferred or expended for

1 any other purpose. Any unobligated funds shall revert as
2 provided by law on June 30, 2018.

3

4 **Section 6.**

5

6 (a) Except as provided in subsection (b) of this
7 section, this act is effective July 1, 2016.

8

9 (b) Section 2 of this act is effective January 1,
10 2017.

11

12 (END)