

HOUSE BILL NO. HB0177

Collection costs for debts owed to the state.

Sponsored by: Representative(s) Burkhardt, Madden and Paxton
and Senator(s) Hicks and Peterson

A BILL

for

1 AN ACT relating to the collection of debts due the state or
2 other governmental entities; providing a fee for collection
3 costs when the state or governmental entity employs a
4 collection agency to recover debts; amending existing
5 statutes; and providing for an effective date.

6

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

8

9 **Section 1.** W.S. 2-10-104(c), 9-1-415(a), 16-4-502(a),
10 16-6-112(a) (i) and (ii), 27-11-107(h), 29-9-101, 31-18-707,
11 39-13-108(b) (iv), 39-15-103(c) (iv), 39-15-106(g) (ii),
12 39-15-107(b) (x), 39-15-108(c) (viii) (B) and (xii),
13 39-16-103(c) (vii), 39-16-107(b) (v), 39-16-108(c) (v), (vi)
14 and (e), 39-17-106(e) (iii) (C), 39-17-206(k) (iii) (C) and
15 39-22-108(c) (iii) are amended to read:

1

2 **2-10-104. Probate court to determine; discretion**
3 **allowed; presumption of correctness.**

4

5 (c) If the probate court finds that the assessment of
6 penalties, ~~and~~ interest and collection fees assessed in
7 relation to the tax is due to delay caused by the
8 negligence of the fiduciary, the court may charge the
9 fiduciary with the amount of the assessed penalties, ~~and~~
10 interest and collection fees.

11

12 **9-1-415. Collection of debts due the state; discharge**
13 **of uncollectible debts.**

14

15 (a) Except as provided in subsections (e) and (f) of
16 this section, any office or agency of the state may use the
17 services of a collection agency licensed in Wyoming to
18 assist in the collection of debts due the state or any
19 state office or agency. Any office or agency of the state
20 using a collection agency as provided in this section may
21 add a reasonable fee, payable by the debtor, to the
22 outstanding debt for the collection agency fee incurred or
23 to be incurred. The amount to be paid for collection

1 services shall be left to the agreement of the office or
2 agency and its collection agency or agencies, but in no
3 case shall a contingent fee exceed twenty percent (20%) of
4 the unpaid debt per account.

5
6 **16-4-502. Collection of debts due a governmental**
7 **entity; discharge of uncollectible debts.**

8
9 (a) The governing body of any governmental entity may
10 authorize the use of the services of a collection agency
11 licensed in Wyoming to assist in the collection of debts
12 due the governmental entity. The governing body using a
13 collection agency as provided in this section may add a
14 reasonable fee, payable by the debtor, to the outstanding
15 debt for the collection agency fee incurred or to be
16 incurred. The amount to be paid for collection services
17 shall be left to the agreement of the governing body and
18 its collection agency or agencies, but in no case shall a
19 contingent fee exceed twenty percent (20%) of the unpaid
20 debt per account.

21

1 **16-6-112. Contractor's bond or other guarantee; when**
2 **required; conditions; amount; approval; filing; enforcement**
3 **upon default.**

4
5 (a) Except as provided under W.S. 9-2-1016(b)(xviii),
6 any contract entered into with the state, any county, city,
7 town, school district or other political subdivision of the
8 state for the construction, major maintenance or renovation
9 of any public building or other public structure or for any
10 public work or improvement and the contract price exceeds
11 seven thousand five hundred dollars (\$7,500.00), shall
12 require any contractor before beginning work under the
13 contract to furnish the state or any political subdivision,
14 as appropriate, a bond or if the contract price is one
15 hundred fifty thousand dollars (\$150,000.00) or less, any
16 other form of guarantee approved by the state or the
17 political subdivision. The bond or other form of guarantee
18 shall be:

19
20 (i) Conditioned for the payment of all taxes,
21 excises, licenses, assessments, contributions, penalties,
22 collection fees and interest lawfully due the state or any
23 political subdivision;

1

2 (ii) For the use and benefit of any person
3 performing any work or labor or furnishing any material or
4 goods of any kind which were used in the execution of the
5 contract, conditioned for the performance and completion of
6 the contract according to its terms, compliance with all
7 the requirements of law and payment as due of all just
8 claims for work or labor performed, material furnished and
9 taxes, excises, licenses, assessments, contributions,
10 penalties, collection fees and interest accrued in the
11 execution of the contract;

12

13 **27-11-107. Penalty.**

14

15 (h) Payment of all fines and penalties imposed under
16 this section shall be made to the county treasurer of the
17 county in which the violation occurs to be credited to the
18 county school fund. Unpaid fines and penalties become
19 delinquent if not paid within sixty (60) days after the
20 fines or penalties are imposed and may be collected by the
21 department as otherwise provided by law and as provided in
22 W.S. 9-1-415(a).

23

1 **29-9-101. Lien of state on realty of debtor.**

2

3 The amount of every account audited, adjusted and found due
4 to the state including penalties, collection fees and
5 interest is a lien upon the real property of the person
6 charged with the debt. The lien shall be in effect from
7 the time suit commences for the recovery of the debt.

8

9 **31-18-707. Nonpayment of fees, taxes, penalties or**
10 **interest.**

11

12 All fees under chapter 18 of title 31, diesel fuel taxes,
13 penalty or interest under title 39 or commercial vehicle
14 registration fees under title 31 become delinquent if not
15 paid as provided for by law from the date due. Delinquent
16 diesel fuel taxes, penalties, interest, collection fees or
17 commercial vehicle registration fees are a lien on all
18 motor vehicles owned or operated in this state by the
19 person liable for payment of the taxes, penalties, interest
20 or fees. If any such taxes, penalties, interest or fees
21 remain delinquent for thirty (30) days or if any vehicle
22 subject to the lien is about to be removed from the state,
23 the department or its authorized enforcement agent may

1 seize and sell the vehicle subject to all existing liens
2 and security interests held by others, at public auction
3 upon notice to the owner and lienholder of record as
4 provided by Rule 4 of the Wyoming Rules of Civil Procedure,
5 and upon four (4) weeks notice of the sale in a newspaper
6 published in the counties in which the vehicle is titled
7 and registered. The department may bring suit in any court
8 of competent jurisdiction to collect any delinquent fees or
9 taxes, penalties, collection fees and interest under this
10 section.

11

12 **39-13-108. Enforcement.**

13

14 (b) Interest. The following shall apply:

15

16 (iv) Rail car companies. If the taxes levied
17 and payable to the department under W.S. 39-13-104(g) are
18 not paid on December 31 of the year levied, they shall
19 become delinquent and shall bear interest at the rate of
20 eleven percent (11%) per annum. If the taxes and interest
21 due are not paid before February 1 following the levy, the
22 department may collect them by distress and sale of any
23 property belonging to the delinquent owner in the manner

1 required of county treasurers, and the order of the
2 department shall be sufficient authority therefor. The
3 department may use any other remedy available for the
4 collection of monies due and may recover collection fees as
5 provided in W.S. 9-1-415(a).

6

7 **39-15-103. Imposition.**

8

9 (c) Taxpayer. The following shall apply:

10

11 (iv) The vendor shall file a return within
12 thirty (30) days after discontinuing or selling his
13 business. His successor in business shall withhold from the
14 purchase price enough money to pay the taxes, penalties and
15 interest due on the outstanding amount of all credit,
16 installment and conditional sales upon which the tax has
17 not been paid until the time the former owner produces a
18 receipt from the department showing that all taxes have
19 been paid or a certificate that no taxes are due. If the
20 successor fails to withhold from the purchase price the
21 amount due and the taxes, penalty and interest are unpaid
22 the original vendor and successor vendor are liable for the

1 payment of the unpaid taxes, penalties, collection fees and
2 interest.

3

4 **39-15-106. Licenses; permits.**

5

6 (g) The department may, after providing notice and an
7 opportunity for a hearing, revoke the license of any vendor
8 violating any provision of this article and no license
9 shall thereafter be issued to that person until the
10 applicant has:

11

12 (ii) Filed with the department all past due
13 returns and has remitted in full all taxes, penalties,
14 collection fees and interest due.

15

16 **39-15-107. Compliance; collection procedures.**

17

18 (b) Payment. The following shall apply:

19

20 (x) The department may enter into contracts with
21 collection agencies for required collection services on
22 deficiencies of sales tax occurring under W.S. 39-15-101
23 through 39-15-111 from and after the reporting period of

1 January, 1989. Any taxes collected by the collection
2 agencies shall be distributed in accordance with W.S.
3 39-15-111(b). ~~There is continuously appropriated from the~~
4 ~~general fund, to the department, an amount equal to the~~
5 ~~cost of collection under each contract but not to exceed~~
6 ~~fifty percent (50%) of the amounts collected by collection~~
7 ~~agencies, under a contract. The department shall expend~~
8 ~~those funds appropriated solely for collection agency~~
9 ~~services and may authorize in the contracts for those~~
10 ~~services that collection agency costs be deducted from~~
11 ~~funds collected and remitted to the department~~ A reasonable
12 fee for the collection fees incurred or to be incurred, in
13 accordance with W.S. 9-1-415(a), may be authorized in the
14 contracts. The contracts entered into under this paragraph
15 shall not be for a term of more than two (2) years and
16 shall be awarded only after competition;

17

18 **39-15-108. Enforcement.**

19

20 (c) Penalties. The following shall apply:

21

22 (viii) The department may, after providing
23 notice and an opportunity for a hearing, revoke the license

1 of any vendor violating any provision of this article and
2 no license shall thereafter be issued to that person until
3 the applicant has:

4

5 (B) Filed with the department all past due
6 returns and has remitted in full all taxes, penalties,
7 collection fees and interest due.

8

9 (xii) If a vendor fails to file a return as
10 required by this article, the department shall give written
11 notice by mail to the vendor to file a return on or before
12 the last day of the month following the notice of
13 delinquency. If a vendor then fails to file a return the
14 department shall make a return from the best information
15 available which will be prima facie correct and the tax due
16 therein is a deficiency and subject to penalties and
17 interest as provided by this article and any collection
18 fees otherwise authorized by law;

19

20 **39-16-103. Imposition.**

21

22 (c) Taxpayer. The following shall apply:

23

1 (vii) If any vendor discontinues his business or
2 sells his stock of goods he shall make a final return and
3 payment within thirty (30) days thereafter. His successor
4 in business shall withhold from the purchase price an
5 amount equal to any taxes, penalty, collection fees or
6 interest due until the time the former owner produces a
7 receipt from the department showing that all amounts due
8 have been paid or a certificate that no taxes are due. If
9 the successor fails to withhold from the purchase price the
10 amount due he is liable for same;

11

12 **39-16-107. Compliance; collection procedures.**

13

14 (b) Payment. The following shall apply:

15

16 (v) If any vendor discontinues his business or
17 sells his stock of goods he shall make a final return and
18 payment within thirty (30) days thereafter. His successor
19 in business shall withhold from the purchase price an
20 amount equal to any taxes, penalty, collection fees or
21 interest due until the time the former owner produces a
22 receipt from the department showing that all amounts due
23 have been paid or a certificate that no taxes are due. If

1 the successor fails to withhold from the purchase price the
2 amount due he is liable for same;

3

4 **39-16-108. Enforcement.**

5

6 (c) Penalties. The following shall apply:

7

8 (v) If the taxes, penalty and interest due under
9 this section and any collection fees otherwise authorized
10 by law are ~~unpaid~~not paid within ten (10) days following
11 service of notice an additional penalty of ten percent
12 (10%) and interest as provided by paragraph (i) of this
13 subsection shall be added by the department;

14

15 (vi) The department shall promptly give written
16 notice of all taxes, penalty, collection fees and interest
17 due under this section by personal service or mail to the
18 address as shown in the department records;

19

20 (e) Tax sales. At any time following a delinquency
21 the department with board approval may seize and sell at
22 public auction any property owned by the delinquent
23 taxpayer to pay all taxes, penalty, collection fees and

1 interest due plus the cost involved in seizing and selling
2 the property. Notice of the sale showing its time and place
3 shall be mailed to the delinquent taxpayer at least ten
4 (10) days prior to the sale. The notice shall also be
5 printed in a newspaper of general circulation published in
6 the county wherein the seized property is to be sold at
7 least ten (10) days prior to the sale. If no newspaper is
8 published in the county the notice shall be posted in three
9 (3) public places ten (10) days prior to the sale. The
10 notice shall contain a description of the property to be
11 sold, a statement of the entire amount due, the name of the
12 delinquent taxpayer and a statement that unless the amount
13 due is paid on or before the time of sale, the property or
14 so much thereof as necessary shall be sold. The department,
15 with board approval, shall give the purchaser a bill of
16 sale for personal property or a deed for real property
17 purchased at the sale. Any unsold property seized may be
18 left at the sale at the risk of the delinquent taxpayer. If
19 the monies received at the sale are in excess of the amount
20 due the excess shall be given to the delinquent taxpayer
21 upon his receipt therefor. If a receipt by the delinquent
22 taxpayer is not given the department shall deposit the

1 excess with the state treasurer as trustee for the
2 delinquent taxpayer.

3

4 **39-17-106. Licenses; permits.**

5

6 (e) The department may require bonds, or accept in
7 lieu of a bond a certificate of deposit meeting the
8 requirements of paragraph (vi) of this subsection, under
9 this article as follows:

10

11 (iii) The bond shall be executed with a
12 corporate surety duly licensed to do business in this
13 state. In lieu of a corporate surety bond, the department
14 may accept a cash bond made payable to the department. Any
15 interest earned on a cash bond shall accrue to the
16 licensee. The bond shall be:

17

18 (C) Guarantee payment of delinquent taxes,
19 penalties and interest due under this article, any
20 collection fees otherwise authorized by law and the return
21 of the license issued under this article;

22

23 **39-17-206. Licenses; permits.**

1

2 (k) The department may require bonds, or accept in
3 lieu of a bond a certificate of deposit meeting the
4 requirements of paragraph (vi) of this subsection, under
5 this article as follows:

6

7 (iii) The bond shall be executed with a
8 corporate surety duly licensed to do business in this
9 state. In lieu of a corporate surety bond, the department
10 may accept a cash bond made payable to the department. Any
11 interest earned on a cash bond shall accrue to the
12 licensee. The bond shall be:

13

14 (C) Guarantee payment of delinquent taxes,
15 penalties and interest due under this article, any
16 collection fees otherwise authorized by law and the return
17 of the license issued under this article;

18

19 **39-22-108. Enforcement.**

20

21 (c) Penalties. The following shall apply:

22

1 (iii) Taxes due together with interest,
2 penalties, collection fees and costs shall be collectible
3 by the department by appropriate judicial proceedings;

4

5 **Section 2.** This act is effective July 1, 2015.

6

7

(END)