

HOUSE BILL NO. HB0225

Collection costs for debts owed to the state.

Sponsored by: Representative(s) Illoway

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 due the state; amending
 5 existing 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), 29-1-101, 31-2-402(d), 31-18-707,
 11 39-13-108(b)(iv) and (d)(vi)(M), 39-14-103(c)(iii),
 12 39-14-108(e)(iv) and (xiv), 39-14-203(c)(ii),
 13 39-14-208(e)(xiv), 39-14-303(c)(iii), 39-14-403(c)(iii),
 14 39-14-408(e)(xiv), 39-14-503(c)(iii), 39-14-508(e)(xiv),
 15 39-14-603(c)(iii), 39-14-608(e)(xiv), 39-14-703(c)(iii),
 16 39-14-708(e)(xiv), 39-15-103(c)(iv), 39-15-106(g)(ii),
 17 39-15-107(b)(iv) and (x), 39-15-108(c)(viii)(B) and (xii),

1 39-16-103(c)(vii), 39-16-105(a)(vii)(A), 39-16-107(b)(v),
2 39-16-108(c)(v), (vi) and (e), 39-17-106(e)(iii)(C),
3 39-17-206(k)(iii)(C) and 41-13-104(a) are amended to read:

4

5 **2-10-104. Probate court to determine; discretion**
6 **allowed; presumption of correctness.**

7

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

14

15 **9-1-415. Collection of debts due the state; discharge**
16 **of uncollectible debts.**

17

18 (a) Except as provided in subsections (e) and (f) of
19 this section, any office or agency of the state may use the
20 services of a collection agency licensed in Wyoming to
21 assist in the collection of debts due the state or any
22 state office or agency. Any office or agency of the state
23 using a collection agency as provided in this section may
24 add a reasonable fee, payable by the debtor to the

1 outstanding debt for the collection agency fee incurred or
2 to be incurred. The amount to be paid for collection
3 services shall be left to the agreement of the office or
4 agency and its collection agency or agencies, but in no
5 case shall a contingent fee exceed twenty-five percent
6 (25%) of the unpaid debt per account.

7
8 **16-4-502. Collection of debts due a governmental**
9 **entity; discharge of uncollectible debts.**

10
11 (a) The governing body of any governmental entity may
12 authorize the use of the services of a collection agency
13 licensed in Wyoming to assist in the collection of debts
14 due the governmental entity. Any governmental entity using
15 a collection agency as provided in this section may add a
16 reasonable fee, payable by the debtor to the outstanding
17 debt for the collection agency fee incurred or to be
18 incurred. The amount to be paid for collection services
19 shall be left to the agreement of the governmental entity
20 and its collection agency or agencies, but in no case shall
21 a contingent fee exceed twenty-five percent (25%) of the
22 unpaid debt per account.

23

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 erection, construction, alteration, repair or
9 addition to any public building or other public structure
10 or for any public work or improvement and the contract
11 price exceeds seven thousand five hundred dollars
12 (\$7,500.00), shall require any contractor before beginning
13 work under the contract to furnish the state or any
14 political subdivision, as appropriate, a bond or if the
15 contract price is one hundred thousand dollars
16 (\$100,000.00) or less, any other form of guarantee approved
17 by the state or the political subdivision. The bond or
18 other form of guarantee shall be:

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

24

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

11

12 **29-1-101. Lien of state on realty of debtor.**

13

14 The amount of every account audited, adjusted and found due
15 to the state including penalties, ~~and~~ interest and
16 collection fees is a lien upon the real property of the
17 person charged with the debt. The lien shall be in effect
18 from the time suit commences for the recovery of the debt.

19

20 **31-2-402. Registration selling agents; application**
21 **for registration.**

22

23 (d) Except as hereafter provided, every person who
24 owns or uses a snowmobile which will be operated within the

1 state of Wyoming shall, for each snowmobile so owned or
2 used file or cause to be filed each year beginning July 1,
3 with any designated registration selling agent, an
4 application for registration of the snowmobile which shall
5 be in writing in duplicate. The application shall state the
6 name and address of the owner and the name of the applicant
7 and describe the snowmobile, including make, model, any
8 identifying serial numbers located on the snowmobile and
9 whether the snowmobile will be operated for private or
10 commercial use. At the time of application, the applicant
11 shall also present proof in a form approved by the
12 department of revenue that all sales or use tax due on the
13 snowmobile have been paid. Any person who knowingly
14 presents a false or fraudulent statement of proof is
15 subject to the provisions of W.S. 6-5-303, in addition to
16 any penalties, ~~and~~ interest and collection fees due for
17 nonpayment of sales or use tax on the snowmobile.

18

19 **31-18-707. Nonpayment of fees, taxes, penalties or**
20 **interest.**

21

22 All fees under chapter 18 of title 31, diesel fuel taxes,
23 penalty or interest under title 39 or commercial vehicle
24 registration fees under title 31 become delinquent if not

1 paid as provided for by law from the date due. Delinquent
2 diesel fuel taxes, penalties, interest, collection fees or
3 commercial vehicle registration fees are a lien on all
4 motor vehicles owned or operated in this state by the
5 person liable for payment of the taxes, penalties, interest
6 or fees. If any such taxes, penalties, interest or fees
7 remain delinquent for thirty (30) days or if any vehicle
8 subject to the lien is about to be removed from the state,
9 the department or its authorized enforcement agent may
10 seize and sell the vehicle subject to all existing liens
11 and security interests held by others, at public auction
12 upon notice to the owner and lienholder of record as
13 provided by Rule 4 of the Wyoming Rules of Civil Procedure,
14 and upon four (4) weeks notice of the sale in a newspaper
15 published in the counties in which the vehicle is titled
16 and registered. The department may bring suit in any court
17 of competent jurisdiction to collect any delinquent fees or
18 taxes, penalties and interest under this section.

19

20 **39-13-108. Enforcement.**

21

22 (b) Interest. The following shall apply:

23

1 (iv) Rail car companies. If the taxes levied
2 and payable to the department under W.S. 39-13-104(g) are
3 not paid on December 31 of the year levied, they shall
4 become delinquent and shall bear interest at the rate of
5 eleven percent (11%) per annum. If the taxes and interest
6 due are not paid before February 1 following the levy, the
7 department may collect them by distress and sale of any
8 property belonging to the delinquent owner in the manner
9 required of county treasurers, and the order of the
10 department shall be sufficient authority therefor. The
11 department may use any other remedy available for the
12 collection of monies due and may recover collection fees as
13 provided in W.S. 9-1-415(a).

14

15 (d) Liens. The following shall apply:

16

17 (vi) Liens on mineral production. The following
18 shall apply:

19

20 (M) All notice of tax liens shall be
21 released within sixty (60) days after taxes, penalties,
22 collection fees and interest due are paid or collected;

23

24 **39-14-103. Imposition.**

1

2 (c) Taxpayer. The following shall apply:

3

4 (iii) Any person extracting valuable products
5 subject to this chapter and any person owning an interest
6 in the valuable products to the extent of their interest
7 ownership are liable for the payment of the severance taxes
8 imposed by this article together with any penalties, ~~and~~
9 interest and collection fees.

10

11 **39-14-108. Enforcement.**

12

13 (e) Liens. The following shall apply:

14

15 (iv) All taxes, fees, penalties, ~~and~~ interest
16 and collection fees imposed under this article are an
17 automatic and continuing lien in favor of the state of
18 Wyoming. The lien is on all property in the state of
19 Wyoming, real, tangible and intangible, including all after
20 acquired property rights, future production and rights to
21 property, of any person severing minerals in this state and
22 who is liable under Wyoming law for the collection, payment
23 or remittance of the severance tax and corresponding
24 penalty or interest as of the date such taxes, fees,

1 penalties or interest is due, and remains a lien until
2 paid;

3

4 (xiv) All notice of tax liens shall be released
5 within sixty (60) days after taxes, penalties, collection
6 fees and interest due are paid or collected;

7

8 **39-14-203. Imposition.**

9

10 (c) Taxpayer. The following shall apply:

11

12 (ii) In the case of severance taxes, any person
13 extracting crude oil, lease condensate or natural gas and
14 any person owning an interest in the crude oil, lease
15 condensate or natural gas production to the extent of their
16 interest ownership are liable for the payment of the
17 severance taxes together with any penalties, ~~and~~ interest
18 and collection fees;

19

20 **39-14-208. Enforcement.**

21

22 (e) Liens. The following shall apply:

23

1 (xiv) All notice of tax liens shall be released
2 within sixty (60) days after taxes, penalties, ~~and~~ interest
3 due and collection fees are paid or collected;

4
5 **39-14-303. Imposition.**

6
7 (c) Taxpayer. The following shall apply:

8
9 (iii) Any person extracting valuable products
10 subject to this article and any person owning an interest
11 in the valuable products to the extent of their interest
12 ownership are liable for the payment of the severance taxes
13 imposed by this article together with any penalties, ~~and~~
14 interest and collection fees.

15
16 **39-14-403. Imposition.**

17
18 (c) Taxpayer. The following shall apply:

19
20 (iii) Any person extracting valuable products
21 subject to this article and any person owning an interest
22 in the valuable products to the extent of their interest
23 ownership are liable for the payment of the severance taxes

1 imposed by this article together with any penalties, and
2 interest and fees.

3

4 **39-14-408. Enforcement.**

5

6 (e) Liens. The following shall apply:

7

8 (xiv) All notice of tax liens shall be released
9 within sixty (60) days after taxes, penalties, collection
10 fees and interest due are paid or collected;

11

12 **39-14-503. Imposition.**

13

14 (c) Taxpayer. The following shall apply:

15

16 (iii) Any person extracting valuable products
17 subject to this article and any person owning an interest
18 in the valuable products to the extent of their interest
19 ownership are liable for the payment of the severance taxes
20 imposed by this article together with any penalties, and
21 interest and collection fees.

22

23 **39-14-508. Enforcement.**

24

1 (e) Liens. The following shall apply:

2

3 (xiv) All notice of tax liens shall be released
4 within sixty (60) days after taxes, penalties, ~~and~~ interest
5 and collection fees due are paid or collected;

6

7 **39-14-603. Imposition.**

8

9 (c) Taxpayer. The following shall apply:

10

11 (iii) Any person extracting valuable products
12 subject to this article and any person owning an interest
13 in the valuable products to the extent of their interest
14 ownership are liable for the payment of the severance taxes
15 imposed by this article together with any penalties, ~~and~~
16 interest and collection fees.

17

18 **39-14-608. Enforcement.**

19

20 (e) Liens. The following shall apply:

21

22 (xiv) All notice of tax liens shall be released
23 within sixty (60) days after taxes, penalties, collection
24 fees and interest due are paid or collected;

1

2

39-14-703. Imposition.

3

4

(c) Taxpayer. The following shall apply:

5

6

(iii) Any person extracting valuable products subject to this article and any person owning an interest in the valuable products to the extent of their interest ownership are liable for the payment of the severance taxes imposed by this article together with any penalties, and interest and collection fees.

12

13

39-14-708. Enforcement.

14

15

(e) Liens. The following shall apply:

16

17

18

(xiv) All notice of tax liens shall be released within sixty (60) days after taxes, penalties, collection fees and interest due are paid or collected;

20

21

39-15-103. Imposition.

22

23

(c) Taxpayer. The following shall apply:

24

1 (iv) The vendor shall file a return within
2 thirty (30) days after discontinuing or selling his
3 business. His successor in business shall withhold from the
4 purchase price enough money to pay the taxes, penalties,
5 and allowable collection fees and interest due on the
6 outstanding amount of all credit, installment and
7 conditional sales upon which the tax has not been paid
8 until the time the former owner produces a receipt from the
9 department showing that all taxes have been paid or a
10 certificate that no taxes are due. If the successor fails
11 to withhold from the purchase price the amount due and the
12 taxes, penalty and interest are unpaid the original vendor
13 and successor vendor are liable for the payment of the
14 unpaid taxes, penalties and interest.

15

16 **39-15-106. Licenses; permits.**

17

18 (g) The department may, after providing notice and an
19 opportunity for a hearing, revoke the license of any vendor
20 violating any provision of this article and no license
21 shall thereafter be issued to that person until the
22 applicant has:

23

1 (ii) Filed with the department all past due
2 returns and has remitted in full all taxes, penalties,
3 collection fees and interest due.

4

5 **39-15-107. Compliance; collection procedures.**

6

7 (b) Payment. The following shall apply:

8

9 (iv) A person regularly engaged in the business
10 of making loans or a supervised financial institution, as
11 defined in W.S. 40-14-140(a)(xix), that forecloses a lien
12 or repossesses a motor vehicle on which it has filed a
13 lien, or an insurance company that acquires ownership of a
14 motor vehicle pursuant to a damage settlement, shall not be
15 liable for payment of sales or use tax, penalties,
16 collection fees or interest due under this section or W.S.
17 39-16-107 for that vehicle;

18

19 (x) The department may enter into contracts with
20 collection agencies for required collection services on
21 deficiencies of sales tax occurring under W.S. 39-15-101
22 through 39-15-111 from and after the reporting period of
23 January, 1989. Any taxes collected by the collection
24 agencies shall be distributed in accordance with W.S.

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

15

16 **39-15-108. Enforcement.**

17

18 (c) Penalties. The following shall apply:

19

20 (viii) The department may, after providing
21 notice and an opportunity for a hearing, revoke the license
22 of any vendor violating any provision of this article and
23 no license shall thereafter be issued to that person until
24 the applicant has:

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39-16-103. Imposition.

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24

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

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

(c) Taxpayer. The following shall apply:

(vii) If any vendor discontinues his business or sells his stock of goods he shall make a final return and payment within thirty (30) days thereafter. His successor in business shall withhold from the purchase price an amount equal to any taxes, penalty, and allowable

1 collection fees or interest due until the time the former
2 owner produces a receipt from the department showing that
3 all amounts due have been paid or a certificate that no
4 taxes are due. If the successor fails to withhold from the
5 purchase price the amount due he is liable for same;

6

7 **39-16-105. Exemptions.**

8

9 (a) The following purchases or leases are exempt from
10 the excise tax imposed by this article:

11

12 (vii) For the purpose of exempting sales of
13 services provided primarily to businesses, exemptions shall
14 be as specified by the legislature and as follows:

15

16 (A) A person regularly engaged in the
17 business of making loans or a supervised financial
18 institution, as defined in W.S. 40-14-140(a)(xix), that
19 forecloses a lien or repossesses a motor vehicle on which
20 it has filed a lien shall not be liable for payment of
21 sales or use tax, penalties, collection fees or interest
22 due under W.S. 39-16-108(b) and (c) for that vehicle;

23

24 **39-16-107. Compliance; collection procedures.**

1

2 (b) Payment. The following shall apply:

3

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

14

15 **39-16-108. Enforcement.**

16

17 (c) Penalties. The following shall apply:

18

19 (v) If the taxes, penalty, collection fees and
20 interest due under this section are unpaid within ten (10)
21 days following service of notice an additional penalty of
22 ten percent (10%) and interest as provided by paragraph (i)
23 of this subsection shall be added by the department;

24

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

5
6 (e) Tax sales. At any time following a delinquency
7 the department with board approval may seize and sell at
8 public auction any property owned by the delinquent
9 taxpayer to pay all taxes, penalty, collection fees and
10 interest due plus the cost involved in seizing and selling
11 the property. Notice of the sale showing its time and place
12 shall be mailed to the delinquent taxpayer at least ten
13 (10) days prior to the sale. The notice shall also be
14 printed in a newspaper of general circulation published in
15 the county wherein the seized property is to be sold at
16 least ten (10) days prior to the sale. If no newspaper is
17 published in the county the notice shall be posted in three
18 (3) public places ten (10) days prior to the sale. The
19 notice shall contain a description of the property to be
20 sold, a statement of the entire amount due, the name of the
21 delinquent taxpayer and a statement that unless the amount
22 due is paid on or before the time of sale, the property or
23 so much thereof as necessary shall be sold. The department,
24 with board approval, shall give the purchaser a bill of

1 sale for personal property or a deed for real property
2 purchased at the sale. Any unsold property seized may be
3 left at the sale at the risk of the delinquent taxpayer. If
4 the monies received at the sale are in excess of the amount
5 due the excess shall be given to the delinquent taxpayer
6 upon his receipt therefor. If a receipt by the delinquent
7 taxpayer is not given the department shall deposit the
8 excess with the state treasurer as trustee for the
9 delinquent taxpayer.

10

11 **39-17-106. Licenses; permits.**

12

13 (e) The department may require bonds under this
14 article as follows:

15

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

22

23 (C) Guarantee payment of delinquent taxes,
24 penalties, allowable collection fees and interest due under

1 this article and the return of the license issued under
2 this article;

3

4 **39-17-206. Licenses; permits.**

5

6 (k) The department may require bonds under this
7 article as follows:

8

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

15

16 (C) Guarantee payment of delinquent taxes,
17 penalties, and allowable collection fees and interest due
18 under this article and the return of the license issued
19 under this article;

20

21 **41-13-104. Application for certificate; issuance of**
22 **certificate and assignment of number; conformity with**
23 **federal numbering system; expiration and renewal of**
24 **certificate; transfer of ownership; duplicate certificate;**

1 **manufacturer and dealer certificates.**

2

3 (a) The owner of each motorboat requiring numbering
4 by this state shall apply for a number with the department
5 or any place selling game and fish licenses on forms
6 approved by the department. The application shall be signed
7 by the owner and accompanied by the fee required by W.S.
8 41-13-109. At the time of application, the applicant shall
9 also present proof in a form approved by the department of
10 revenue that all sales or use tax due on the motorboat have
11 been paid. Any person who knowingly presents a false or
12 fraudulent statement of proof is subject to the provisions
13 of W.S. 6-5-303, in addition to any penalties, collection
14 fees and interest due for nonpayment of sales or use tax on
15 the motorboat. Upon receipt of the application in approved
16 form the department shall issue to the applicant a
17 certificate of number stating the number awarded to the
18 motorboat and the name and address of the owner. The owner
19 shall paint on or attach to each side of the bow of the
20 motorboat the identification number in such manner as may
21 be prescribed by rules and regulations of the commission in
22 order that it may be completely visible. The number shall
23 be maintained in legible condition. The certificate of
24 number shall be pocket size and shall be available at all

1 times for inspection on the motorboat for which issued,
2 wherever the motorboat is operated. If any motorboat is
3 rented for less than one (1) day, the owner or his designee
4 may retain the certificate of number on shore if the
5 certificate is readily available for inspection.

6

7 **Section 2.** This act is effective July 1, 2007.

8

9

(END)