

CHAPTER 16D

DEBT COLLECTION

16D.02 Definitions.
16D.04 Collection activities.

16D.09 Uncollectible debts.
16D.13 Interest.

16D.02 DEFINITIONS.

[For text of subs 1 and 2, see M.S.1998]

Subd. 3. **Debt.** "Debt" means an amount owed to the state directly, or through a state agency, on account of a fee, duty, lease, direct loan, loan insured or guaranteed by the state, rent, service, sale of real or personal property, overpayment, fine, assessment, penalty, restitution, damages, interest, tax, bail bond, forfeiture, reimbursement, liability owed, an assignment to the state including assignments under section 256.741, the Social Security Act, or other state or federal law, recovery of costs incurred by the state, or any other source of indebtedness to the state. Debt also includes amounts owed to individuals as a result of civil, criminal, or administrative action brought by the state or a state agency pursuant to its statutory authority or for which the state or state agency acts in a fiduciary capacity in providing collection services in accordance with the regulations adopted under the Social Security Act at Code of Federal Regulations, title 45, section 302.33. Debt also includes an amount owed to the courts or University of Minnesota for which the commissioner provides collection services pursuant to contract.

[For text of subs 4 to 8, see M.S.1998]

History: 1999 c 159 s 3

16D.04 COLLECTION ACTIVITIES.

[For text of subd 1, see M.S.1998]

Subd. 2. **Agency participation.** (a) A state agency may, at its option, refer debts to the commissioner for collection. The ultimate responsibility for the debt, including the reporting of the debt to the commissioner of finance and the decision with regard to the continuing collection and uncollectibility of the debt, remains with the referring state agency.

(b) When a debt owed to a state agency becomes 121 days past due, the state agency must refer the debt to the commissioner for collection. This requirement does not apply if there is a dispute over the amount or validity of the debt, if the debt is the subject of legal action or administrative proceedings, or the agency determines that the debtor is adhering to acceptable payment arrangements. The commissioner, in consultation with the commissioner of finance, may provide that certain types of debt need not be referred to the commissioner for collection under this paragraph. Methods and procedures for referral must follow internal guidelines prepared by the commissioner of finance.

[For text of subs 3 and 4, see M.S.1998]

History: 1999 c 250 art 1 s 67

16D.09 UNCOLLECTIBLE DEBTS.

Subdivision 1. **Generally.** When a debt is determined by a state agency to be uncollectible, the debt may be written off by the state agency from the state agency's financial accounting records and no longer recognized as an account receivable for financial reporting purposes. A debt is considered to be uncollectible when (1) all reasonable collection efforts have been exhausted, (2) the cost of further collection action will exceed the amount recoverable, (3) the debt is legally without merit or cannot be substantiated by evidence, (4) the debtor cannot be located, (5) the available assets or income, current or anticipated, that may be available for payment of the debt are insufficient, (6) the debt has been discharged in bank-

ruptcy, (7) the applicable statute of limitations for collection of the debt has expired, or (8) it is not in the public interest to pursue collection of the debt. The determination of the uncollectibility of a debt must be reported by the state agency along with the basis for that decision as part of its quarterly reports to the commissioner of finance. Determining that the debt is uncollectible does not cancel the legal obligation of the debtor to pay the debt, except in the case of a debt related to a tax liability that is canceled by the department of revenue.

Subd. 2. Notification of action by department of revenue. When the department of revenue has determined that a debt is uncollectible and has written off that debt as provided in subdivision 1, the commissioner of revenue must make a reasonable attempt to notify the debtor of that action and of the release of any liens imposed under section 270.69 related to that debt, within 30 days after the determination has been reported to the commissioner of finance.

History: 1999 c 243 art 2 s 1

16D.13 INTEREST.

[For text of subds 1 and 2, see M.S.1998]

Subd. 3. Exclusion. A state agency may not charge interest under this section on overpayments of assistance benefits under the programs formerly codified in sections 256.031 to 256.0361, 256.72 to 256.87, and under chapters 256D and 256I, or the federal food stamp program. Notwithstanding this prohibition, any debts that have been reduced to judgment under these programs are subject to the interest charges provided under section 549.09.

History: 1999 c 159 s 4