CHAPTER 16D

STATE DEBT COLLECTION

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16D.01 CITATION AND SCOPE.

Subdivision 1. **Citation.** This chapter may be cited as the "Debt Collection Act."

Subd. 2. **Scope.** The collection procedures and remedies under this chapter are in addition to any other procedure or remedy available by law. If the referring agency's applicable state or federal law provides for the use of a particular remedy or procedure for the collection of a debt, that particular remedy or procedure governs the collection of that debt to the extent the procedure or remedy is inconsistent with this chapter.

History: *1994 c 632 art 3 s 35*

16D.02 DEFINITIONS.

Subdivision 1. **Application.** The definitions in this section apply to this chapter.

Subd. 2. **Commissioner.** "Commissioner" means the commissioner of revenue.

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 518A.81, 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. When the commissioner provides collection services to a referring agency, debt also includes an amount owed to the courts, local government units, Minnesota state colleges and universities governed by the Board of Trustees of the Minnesota State Colleges and Universities, or University of Minnesota.

Subd. 4. **Debtor.** "Debtor" means an individual, corporation, partnership, an unincorporated association, a limited liability company, a trust, an estate, or any other public or private entity, including a state, local, or federal government, or an Indian Tribe, that is liable for a debt or against whom there is a claim for a debt.

Subd. 5. [Repealed, 2014 c 308 art 9 s 94]

Subd. 6. **Referring agency.** "Referring agency" means a state agency, local government unit, Minnesota state colleges and universities governed by the Board of Trustees of the Minnesota State Colleges and Universities, University of Minnesota, or a court, that has entered into an agreement with the commissioner to refer debts to the commissioner for collection.

Subd. 7. **State agency.** "State agency" means a state office, officer, board, commission, bureau, division, department, authority, agency, public corporation, or other unit of state government.

Subd. 8. [Repealed, 2014 c 308 art 9 s 94]

History: *1994 c 632 art 3 s 36; 1995 c 254 art 5 s 3,4; 1996 c 390 s 14,15; 1998 c 366 s 29; 1999 c 159 s 3; 2008 c 366 art 16 s 1,2; 2014 c 308 art 9 s 1,2; 2024 c 80 art 8 s 68*

16D.03 SUPERVISION OF STATE DEBT COLLECTION.

Subdivision 1. **Responsibility.** The commissioner of management and budget shall supervise and report on state debt collection.

Subd. 2. **State agency reports.** State agencies shall report quarterly to the commissioner of management and budget the debts owed to them. The commissioner of management and budget, in consultation with the commissioners of revenue and human services, and the attorney general, shall establish internal guidelines for the recognition, tracking, reporting, and collection of debts owed the state. The internal guidelines must include accounting standards, performance measurements, and uniform reporting requirements applicable to all state agencies. The commissioner of management and budget shall require a state agency to recognize, track, report, and attempt to collect debts according to the internal guidelines.

Subd. 3. [Repealed, 2003 c 112 art 1 s 19]

History: *1994 c 632 art 3 s 37; 1996 c 390 s 16,17; 2009 c 101 art 2 s 109*

16D.04 COLLECTION ACTIVITIES.

Subdivision 1. **Duties.** The commissioner shall provide services to the state and referring agencies to collect debts referred for collection under this chapter. The commissioner is not a collection agency as defined by section 332.31, subdivision 3, and is not licensed, bonded, or regulated by the commissioner of commerce under sections 332.31 to 332.35 or 332.38 to 332.44. The commissioner is subject to section 332.37, except clause (9), (10), (12), or (19). An audited financial statement may not be required as a condition of debt placement with a private agency if the private agency: (1) has errors and omissions coverage under a professional liability policy in an amount of at least $1,000,000; or (2) has a fidelity bond to cover actions of its employees, in an amount of at least $100,000.

Subd. 2. **Agency participation.** (a) A referring agency must refer, by electronic means, debts to the commissioner for collection. Decisions with regard to continuing collection and the uncollectibility of referred debts shall be made by the commissioner who shall then notify the commissioner of management and budget and the referring agency. A decision by the commissioner that a referred debt is uncollectible does not prevent the referring agency from taking additional collection action.

(b) Before a debt becomes 121 days past due, a referring agency may refer the debt to the commissioner for collection at any time after a debt becomes delinquent and uncontested and the debtor has no further administrative appeal of the amount of the debt. When a debt owed to a referring agency becomes 121 days past due, the referring 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 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.

(c) If the referring agency is a court, the court must furnish a debtor's Social Security number to the commissioner when the court refers the debt.

Subd. 3. **Services.** The commissioner shall provide collection services for a state agency, and may provide collection services for referring agencies other than state agencies.

Subd. 4. **Authority to contract.** The commissioner of revenue may contract with credit bureaus, private collection agencies, and other entities as necessary for the collection of debts. A private collection agency acting under a contract with the commissioner of revenue is subject to sections 332.31 to 332.44, except that the private collection agency may indicate that it is acting under a contract with the state. The commissioner may not delegate the powers provided under section 16D.08 to any nongovernmental entity.

History: *1994 c 632 art 3 s 38; 1995 c 254 art 5 s 5,6; 1996 c 390 s 18,19; 1998 c 366 s 30,31; 1999 c 250 art 1 s 67; 2006 c 260 art 5 s 3; 2008 c 154 art 15 s 1,2; 2008 c 366 art 16 s 3; 2009 c 101 art 2 s 109; 2014 c 222 art 2 s 1,2; 2014 c 262 art 5 s 6; 2014 c 308 art 9 s 3,4; 2015 c 21 art 1 s 7*

16D.045 STAFF.

If there is an increase in the complement of collectors employed by the commissioner of revenue to work for the Minnesota collection enterprise above the complement employed on June 30, 1998, the new complement of collectors must be located in the Ely office.

History: *1998 c 366 s 32; 1998 c 408 s 8*

16D.05 PRIORITY OF SATISFACTION OF DEBTS.

Subdivision 1. **Multiple debts.** If two or more debts owed by the same debtor are submitted to the commissioner, amounts collected on those debts must be applied as prescribed in this section.

Subd. 2. **Enforcement of liens.** If the money received is collected on a judgment lien under chapter 550, a lien provided by chapter 514, a consensual lien or security interest, protection of an interest in property through chapter 570, by collection process provided by chapters 551 and 571, or by any other process by which the commissioner is enforcing rights in a particular debt, the money must be applied to that particular debt.

Subd. 3. **Other methods of collection.** If the money is collected in any manner not specified in subdivision 2, the money collected must apply first to the satisfaction of any debts for child support. Any debts other than child support must be satisfied in the order in time in which the commissioner received the debts from the referring agency.

History: *1994 c 632 art 3 s 39*

16D.06 DEBTOR INFORMATION.

Subdivision 1. **Access to government data not public.** Notwithstanding chapter 13 or any other state law classifying or restricting access to government data, upon request from the commissioner or the attorney general, state agencies, political subdivisions, and statewide systems shall disseminate not public data to the commissioner or the attorney general for the sole purpose of collecting debt. Not public data disseminated

under this subdivision is limited to financial data of the debtor or data related to the location of the debtor or the assets of the debtor.

Subd. 2. **Disclosure of data.** Data received, collected, created, or maintained by the commissioner or the attorney general to collect debts are classified as private data on individuals under section 13.02, subdivision 12, or nonpublic data under section 13.02, subdivision 9. The commissioner or the attorney general may disclose not public data:

(1) under section 13.05;

(2) under court order;

(3) under a statute specifically authorizing access to the not public data;

(4) to provide notices required or permitted by statute;

(5) to an agent of the commissioner or the attorney general, including a law enforcement person, attorney, or investigator acting for the commissioner or the attorney general in the investigation or prosecution of a criminal or civil proceeding relating to collection of a debt;

(6) to report names of debtors, amount of debt, date of debt, and the agency to whom debt is owed to credit bureaus;

(7) to locate the debtor, locate the assets of the debtor, or to enforce or implement the collection of a debt, provided that the commissioner or the attorney general may disclose only the data that are necessary to enforce or implement collection of the debt; and

(8) to the commissioner of revenue for tax administration purposes.

The commissioner and the attorney general may not disclose data that is not public to a private collection agency or other entity with whom the commissioner has contracted under section 16D.04, subdivision 4, unless disclosure is otherwise authorized by law.

History: *1994 c 632 art 3 s 40; 1995 c 254 art 5 s 7; 1996 c 390 s 20; 1998 c 366 s 33*

16D.07 NOTICE TO DEBTOR.

The referring agency shall send notice to the debtor by United States mail or personal delivery at the debtor's last known address at least 20 days before the debt is referred to the commissioner. The notice must state the nature and amount of the debt, identify to whom the debt is owed, and inform the debtor of the remedies available under this chapter. The referring agency shall advise the debtor of collection costs imposed under section 16D.11 and of the debtor's right to cancellation of collection costs under section 16D.11, subdivision 3.

History: *1994 c 632 art 3 s 41; 2014 c 308 art 9 s 5*

16D.08 COLLECTION DUTIES AND POWERS.

Subdivision 1. **Duties.** The commissioner shall take all reasonable and cost-effective actions to collect debts referred to the commissioner.

Subd. 2. **Powers.** (a) In addition to the collection remedies available to private collection agencies in this state, the commissioner, with legal assistance from the attorney general, may utilize any statutory authority granted to a referring agency for purposes of collecting debt owed to that referring agency. The

commissioner may also use the tax collection remedies in sections 270C.03, subdivision 1, clause (8), 270C.31, 270C.32, 270C.52, subdivisions 2 and 3, 270C.63, 270C.65, and 270C.67 to 270C.72. A debtor may take advantage of any administrative or appeal rights contained in the listed sections. For administrative and appeal rights for nontax debts, references to administrative appeals or to the taxpayer rights advocate shall be construed to be references to the case reviewer, references to Tax Court shall be construed to mean district court, and offers in compromise shall be submitted to the referring agency. A debtor who qualifies for cancellation of collection costs under section 16D.11, subdivision 3, clause (1), can apply to the commissioner for reduction or release of a continuous wage levy, if the debtor establishes that the debtor needs all or a portion of the wages being levied upon to pay for essential living expenses, such as food, clothing, shelter, medical care, or expenses necessary for maintaining employment. The commissioner's determination not to reduce or release a continuous wage levy is appealable to district court. The word "tax" or "taxes" when used in the tax collection statutes listed in this subdivision also means debts referred under this chapter.

(b) Before using the tax collection remedies listed in this subdivision, notice and demand for payment of the amount due must be given to the person liable for the payment or collection of the debt at least 30 days prior to the use of the remedies. The notice must be sent to the person's last known address and must include a brief statement that sets forth in simple and nontechnical terms the amount and source of the debt, the nature of the available collection remedies, and remedies available to the debtor.

History: *1994 c 632 art 3 s 42; 1995 c 254 art 5 s 8; 1996 c 390 s 21; 1998 c 366 s 34; 1Sp2001 c 5 art 7 s 1; 1Sp2003 c 1 art 2 s 57; 2005 c 151 art 2 s 1*

16D.09 UNCOLLECTIBLE DEBTS.

Subdivision 1. **Generally.** (a) 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 bankruptcy, (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.

(b) Uncollectible debt must be reported by the state agency as part of its quarterly reports to the commissioner of management and budget. The basis for the determination of the uncollectibility of the debt must be maintained by the state agency. If an uncollectible debt equals or exceeds $100,000, the agency shall notify the chairs and ranking minority members of the legislative committees with jurisdiction over the state agency's budget at the time the debt is determined to be uncollectible. The information reported shall contain the entity associated with the uncollected debt, the amount of the debt, the revenue type, the reason the debt is considered uncollectible, and the duration the debt has been outstanding. The commissioner of management and budget shall report to the chairs and ranking minority members of the legislative committees with jurisdiction over Minnesota Management and Budget an annual summary of the number and dollar amount of debts determined to be uncollectible during the previous fiscal year by November 30 of each year. Determining that the debt is uncollectible does not cancel the legal obligation of the debtor to pay the debt.

Subd. 2. [Repealed, 2003 c 112 art 1 s 19]

History: *1994 c 632 art 3 s 43; 1996 c 390 s 22; 1999 c 243 art 2 s 1; 2000 c 490 art 13 s 3; 2003 c 112 art 1 s 14; 2009 c 101 art 2 s 109; 1Sp2019 c 10 art 3 s 12; 2025 c 39 art 2 s 51*

16D.10 CASE REVIEWER.

Subdivision 1. **Duties.** The commissioner shall make a case reviewer available to debtors. The reviewer must be available to answer a debtor's questions concerning the collection process and to review the collection activity taken. If the reviewer reasonably believes that the particular action being taken is unreasonable or unfair, the reviewer may make recommendations to the commissioner in regard to the collection action.

Subd. 2. **Authority to issue debtor assistance order.** On application filed by a debtor with the case reviewer, in the form, manner, and in the time prescribed by the commissioner, and after thorough investigation, the case reviewer may issue a debtor assistance order if, in the determination of the case reviewer, the manner in which the state debt collection laws are being administered is creating or will create an unjust and inequitable result for the debtor. Debtor assistance orders are governed by the provisions relating to taxpayer assistance orders under section 270C.37.

Subd. 3. **Transfer of duties to taxpayer rights advocate.** All duties and authority of the case reviewer under subdivisions 1 and 2 are transferred to the taxpayer rights advocate.

History: *1994 c 632 art 3 s 44; 2005 c 151 art 1 s 116; art 9 s 1*

16D.11 COLLECTION COSTS.

Subdivision 1. **Imposition.** As determined by the commissioner of revenue, collection costs shall be added to the debts referred to the commissioner or private collection agency for collection. Collection costs are collectible by the commissioner or private agency from the debtor at the same time and in the same manner as the referred debt. If the commissioner or private agency collects an amount less than the total due, the payment is applied proportionally to collection costs and the underlying debt unless the commissioner has waived this requirement for certain categories of debt pursuant to the department's internal guidelines. Collection costs collected by the commissioner under this subdivision or retained under subdivision 6 shall be deposited in the general fund as nondedicated receipts. Collections of collection costs in excess of collection agency fees must be deposited in the general fund as nondedicated receipts.

Subd. 2. [Repealed, 2014 c 308 art 9 s 94]

Subd. 3. **Cancellation.** Collection costs imposed under subdivision 1 shall be canceled and subtracted from the amount due if:

(1) the debtor's household income as defined in section 290A.03, subdivision 5, excluding the exemption subtractions in subdivision 3, paragraph (c), of that section, for the 12 months preceding the date of referral is less than twice the annual federal poverty guideline under United States Code, title 42, section 9902, subsection (2);

(2) within 60 days after the first contact with the debtor by the commissioner or collection agency, the debtor establishes reasonable cause for the failure to pay the debt prior to referral of the debt to the commissioner;

(3) a good faith dispute as to the legitimacy or the amount of the debt is made, and payment is remitted or a payment agreement is entered into within 30 days after resolution of the dispute;

(4) good faith litigation occurs and the debtor's position is substantially justified, and if the debtor does not totally prevail, the debt is paid or a payment agreement is entered into within 30 days after the judgment becomes final and nonappealable; or

(5) collection costs have been added by the referring agency and are included in the amount of the referred debt.

Subd. 4. **Appeal.** Decisions of the commissioner denying an application to cancel collection costs under subdivision 3 are subject to the contested case procedure under chapter 14.

Subd. 5. **Refund.** If collection costs are collected and then canceled, the amount of the collection costs shall be refunded to the debtor within 30 days. The amount necessary to pay the refunds is annually appropriated to the commissioner.

Subd. 6. **Charge to referring agency.** If collection costs are canceled under subdivision 3, an amount equal to the costs is retained by the commissioner from the debt collected, and is accounted for and subject to the same provisions of this chapter as if the costs had been collected from the debtor.

Subd. 7. **Adjustment of rate.** By June 1 of each year, the commissioner shall determine the rate of collection costs for debts referred to the commissioner during the next fiscal year. The rate is a percentage of the debts in an amount that most nearly equals the costs of the commissioner necessary to process and collect referred debts under this chapter. In no event shall the rate of the collection costs exceed 25 percent of the debt. Determination of the rate of collection costs under this section is not subject to the fee setting requirements of section 16A.1283.

History: *1995 c 254 art 5 s 9; 1996 c 390 s 23,24; 1997 c 187 art 3 s 3; 1998 c 366 s 35; 2002 c 379 art 1 s 9; 2005 c 151 art 2 s 17; 2008 c 154 art 15 s 3,4; 2009 c 101 art 2 s 109; 2010 c 382 s 9; 2014 c 308 art 9 s 6-8; 2019 c 50 art 1 s 10*

16D.12 PAYMENT OF COLLECTION AGENCY FEES.

Unless otherwise expressly prohibited by law, a state agency may pay for the services of the commissioner or a private collection agency from the money collected. The portion of the money collected which must be paid to the commissioner or the collection agency as its collection fee is appropriated from the fund to which the collected money is due.

History: *1995 c 254 art 5 s 10; 1996 c 390 s 25*

16D.13 INTEREST.

Subdivision 1. **Authority.** Unless otherwise provided by a contract out of which the debt arises, by state or federal law, or by a written justification from an agency and approved by the Department of Management and Budget showing the costs of charging interest exceed the benefit, a state agency shall charge simple interest on debts owed to the state at the rate provided in subdivision 2 if notice has been given in accordance with this subdivision. Interest charged under this section begins to accrue on the 30th calendar day following the state agency's first written demand for payment that includes notification to the debtor that interest will begin to accrue on the debt in accordance with this section.

Subd. 2. **Computation.** Notwithstanding chapter 334, the rate of interest is the rate established by the Department of Revenue under section 270C.40.

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 119B, 256D, and 256I, or the federal Supplemental Nutrition Assistance Program (SNAP). 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: *1995 c 254 art 5 s 11; 1999 c 159 s 4; 2003 c 112 art 1 s 15,16; 2005 c 151 art 2 s 17; 2007 c 147 art 2 s 2; 2009 c 101 art 2 s 109; 1Sp2019 c 9 art 1 s 42*

16D.14 VENUE.

Subdivision 1. **Authorization.** The commissioner or the attorney general may bring an action to recover debts owed to the state in Ramsey County District Court or Ramsey County Conciliation Court at the discretion of the state. In order to bring a cause of action under this section in any county other than the county where the debtor resides or where the cause of action arose, the commissioner or the attorney general must notify the debtor as provided in subdivisions 2 to 4, unless that venue is authorized by other law.

Subd. 2. **Conciliation court; claims for $2,500 or less.** (a) The commissioner or the attorney general may bring a conciliation court action where the cause of action arose or where the debtor resides. Before bringing a conciliation court action for a claim for $2,500 or less under this section in any county other than where the debtor resides or where the cause of action arose, the commissioner or the attorney general shall send a form by first class mail to the debtor's last known address notifying the debtor of the intent to bring an action in Ramsey County. The commissioner or attorney general must enclose a form for the debtor to use to request that the action not be brought in Ramsey County and a self-addressed, postage paid envelope. The form must advise the debtor of the right to request that the action not be brought in Ramsey County and that the debtor has 30 days from the date of the form to make this request.

(b) If the debtor timely returns the form requesting the action not be brought in Ramsey County, the commissioner or attorney general may only file the action in the county of the debtor's residence, the county where the cause of action arose, or as provided by other law. The commissioner or attorney general shall notify the debtor of the action taken. If the debtor does not timely return the form, venue is as chosen by the commissioner or attorney general as authorized under this section.

(c) If a judgment is obtained in Ramsey County Conciliation Court when the form was sent by first class mail under this subdivision and the debtor reasonably demonstrates that the debtor did not reside at the address where the form was sent or that the debtor did not receive the form, the commissioner or the attorney general shall vacate the judgment without prejudice and return any funds collected as a result of enforcement of the judgment. Evidence of the debtor's correct address include, but are not limited to, a driver's license, homestead declaration, school registration, utility bills, or a lease or rental agreement.

Subd. 3. **Conciliation court claims exceeding $2,500.** (a) The commissioner or the attorney general may bring a conciliation court action where the cause of action arose or where the debtor resides. In order to bring a conciliation court claim that exceeds $2,500 under this section in a county other than where the debtor resides or where the cause of action arose, the commissioner or the attorney general shall serve with the conciliation court claim a change of venue form for the debtor to use to request that venue be changed and a self-addressed, postage paid return envelope. This form must advise the debtor that the form must be returned within 30 days of the date of service or venue will remain in Ramsey County.

(b) If the debtor timely returns the change of venue form requesting a change of venue, the commissioner or attorney general shall change the venue of the action to the county of the debtor's residence, the county where the cause of action arose, as provided by other law, or dismiss the action. The commissioner or attorney general must notify the debtor of the action taken. If the debtor does not timely return the form, venue is as

chosen by the commissioner or attorney general as authorized under this section. The commissioner or the attorney general shall file the signed return receipt card or the proof of service with the court.

Subd. 4. **District court.** (a) In order to bring a district court action under this section in any county other than where the debtor resides or where the cause of action arose, the commissioner or attorney general shall serve the change of venue form with the summons and complaint or petition commencing the collection action. Two copies of the form must be served along with a self-addressed, postage paid return envelope. The form must advise the debtor that the form must be returned within 20 days of the date of service or venue will remain in Ramsey County. If the debtor timely returns the change of venue form, the time to answer the summons and complaint or petition runs from the date of debtor's request for change of venue.

(b) If the debtor timely returns the change of venue form requesting that the action not be brought in Ramsey County, the commissioner or attorney general shall change the venue of the action to the county of the debtor's residence, the county where the cause of action arose, as provided by other law, or dismiss the action. The commissioner or attorney general shall notify the debtor of the action taken. If the debtor is served the form to change venue along with the district court summons and complaint or petition, in accordance with court rules, but does not return the form within the statutory timelines, venue is as chosen by the commissioner or attorney general as authorized under this section. The commissioner or attorney general shall file the proof of service along with the summons and complaint or petition commencing the lawsuit.

Subd. 5. **Fees.** No court filing fees, docketing fees, release of judgment fees, or any other fees or costs for court services may be assessed against the state for actions filed by the state or a state agency seeking monetary relief in favor of the state.

History: *1995 c 254 art 5 s 12; 1998 c 366 s 36-38*

16D.15 COMPROMISE OF DEBT.

Unless expressly prohibited by other federal or state law, a state agency may compromise debts owed to the state, whether reduced to judgment or not, where the state agency determines that it is in the best interests of the state to do so.

History: *1995 c 254 art 5 s 13*

16D.16 SETOFFS.

Subdivision 1. **Authorization.** Unless prohibited by other law, the state agency utilizes a more specific setoff statute, or the state payments are subject to a more specific setoff statute, the commissioner or a state agency may automatically deduct the amount of a debt owed to the state from any state payment due to the debtor. Tax refunds, earned income tax credit, child care credit, funds exempt under section 550.37, or funds owed to an individual who is receiving assistance under the provisions of chapter 256 are not subject to setoff under this section. If a debtor has entered into a written payment plan with respect to payment of a specified debt, the right of setoff may not be used to satisfy that debt. Notwithstanding section 181.79, the state may deduct from the wages due or earned by a state employee to collect a debt, subject to the limitations in section 571.922.

Subd. 2. **Notice and hearing.** Before setoff, the commissioner or state agency shall mail written notice by certified mail to the debtor, addressed to the debtor's last known address, that the commissioner or state agency intends to set off a debt owed to the state by the debtor against future payments due the debtor from the state. For debts owed to the state that have not been reduced to judgment, if no administrative appeal process or a hearing by an impartial decision maker on the validity or accuracy of the debt has yet been

made available to the debtor, before setoff for a prejudgment debt, the notice to the debtor must advise that the debtor has a right to make a written request for a contested case hearing on the validity of the debt or the right to setoff. The debtor has 30 days from the date of that notice to make a written request for a contested case hearing to contest the validity of the debt or the right to setoff. The debtor's request must state the debtor's reasons for contesting the debt or the right to setoff. If the commissioner or state agency desires to pursue the right to setoff following receipt of the debtor's request for a hearing, the commissioner or state agency shall schedule a contested case hearing within 30 days of the receipt of the request for the hearing. If the commissioner or state agency decides not to pursue the right to setoff, the debtor must be notified of that decision.

History: *1995 c 254 art 5 s 14; 1998 c 366 s 39*

16D.17 ENFORCEMENT OF STATUTORY PENALTIES.

A state agency may enforce a final penalty order imposed for violations of state law in the same manner as a district court judgment if:

(1) notice and opportunity for a hearing on the penalty has been provided and the notice gives at least 30 days to request a hearing, unless the agency statute provides for a different timeline; and

(2) the notice or order of the penalty states that when the order becomes final, the agency may file and enforce the penalty as a judgment without further notice or additional proceedings.

The administrative order may be filed with a district court administrator along with an affidavit of identification and amount owed, and the court administrator shall enter and docket the administrative order as a civil judgment.

History: *1998 c 366 s 40*

16D.18 RECIPROCAL AGREEMENT.

(a) The commissioner is authorized to enter into agreements with the federal Department of the Treasury that provide for offsetting state payments against federal nontax obligations. Except as provided in paragraph (d), the commissioner may charge a fee of $20 per transaction for such offsets and may collect this offset fee from the debtor by deducting it from the state payment. The agreement may provide for offsetting federal payments, as authorized by federal law, against state tax and nontax obligations, and collecting the offset cost from the debtor. The agreement shall provide that the federal Department of the Treasury may deduct a fee from each administrative offset and state payment offset. Setoffs to collect state and other entity obligations under this chapter and chapters 270A and 270C, and any other provision of Minnesota Statutes occur before a state payment offset. For purposes of this paragraph "administrative offset" is any offset of federal payments to collect state debts and "state payment offset" is any offset of state payments to collect federal nontax debts.

(b) A debt is eligible for offset under this program if notice of intent to offset the debt is sent at least 60 days prior to filing an offset claim or a shorter period of time, if required by federal law or an agreement with the federal Department of the Treasury. When there is an agreement for scheduled payments on an account, the debtor must be sent this notice each time an additional debt is claimed.

(c) The debtor shall have the time period required for notice under paragraph (b) to contest the offset. An agreement under this section must not allow for offset of payments if the debt that would be subject to the offset is being contested or if the time for appealing the determination of the debt has not yet expired.

The treasury offset program agreement entered into by the state must not require federal agencies to provide different due process than the requirements under Code of Federal Regulations, title 31, section 285.6.

(d) Notwithstanding the fee authorized under paragraph (a), if the commissioner enters into a contingency fee agreement with a nonstate vendor to provide assistance under this section, the commissioner may charge a debtor a fee for the processing of state payment offsets for the recovery of federal nontax debts or the processing of federal payment offsets for the recovery of state tax and nontax debt. The fee is a separate debt and may be withheld from any refund, reimbursement, or other money held for the debtor. The fee may not exceed 15 percent of the original debt. Section 16A.1283 does not apply to fees charged under this paragraph.

History: *1Sp2011 c 10 art 3 s 30*