

AMENDED IN ASSEMBLY JANUARY 24, 1996

AMENDED IN ASSEMBLY JANUARY 4, 1996

AMENDED IN ASSEMBLY MAY 10, 1995

AMENDED IN ASSEMBLY MARCH 28, 1995

AMENDED IN ASSEMBLY MARCH 15, 1995

CALIFORNIA LEGISLATURE—1995–96 REGULAR SESSION

ASSEMBLY BILL

No. 255

**Introduced by Assembly Member Speier
(Coauthors: Assembly Members Alpert, Kuehl, Mazzoni,
and Willard Murray)**

February 6, 1995

An act to amend Section 16584 of, to add ~~and repeal~~ Sections 16583.5 and 16583.7 ~~of to~~, and to repeal Section 16587 of, the Government Code, and to amend Section 19532 of, and to add ~~and repeal~~ Section 19568 ~~of to~~, the Revenue and Taxation Code, relating to state funds, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 255, as amended, Speier. Student Aid Commission: collection of accounts receivable.

The Accounts Receivable Management Act, until January 1, 1999, imposes various requirements on participants, which includes state agencies, with respect to the participants' accounts receivable collection systems and authorizes

participants to take certain actions regarding the collection of these accounts receivable.

This bill would eliminate the January 1, 1999, repeal date of the act thereby extending its provisions indefinitely. The bill would also require the Student Aid Commission to enter into an interagency agreement, as specified, with the Franchise Tax Board to collect all or part of the commission's outstanding accounts receivable in any manner authorized by law for the collection of a delinquent personal income tax liability, and would require the commission to develop criteria and policy that would define when an account receivable is delinquent and thereby subject to collection by the board.

The bill would require, upon concurrence of the Controller, that amounts collected by the board be deposited and distributed in accordance with the interagency agreement. These amounts would be continuously appropriated for purposes of reimbursement of departmental costs attributable to the delinquency referral program, thereby making an appropriation.

~~The bill would also specify that the provisions relating to the commission's delinquency referral program would remain in effect only until January 1, 2001, and as of that date would be repealed, unless a later enacted statute, that is enacted before January 1, 2001, deletes or extends that date.~~

Existing law also permits a participant to elect to assign or sell part or all of its accounts receivable to a private debt collector or private persons or entities if certain conditions are met.

This bill would require that any assignment or sale of an account receivable by a state agency be subject to provisions governing contracts for services by state agencies.

The bill would appropriate \$798,000 from the State Guaranteed Loan Reserve Fund to be allocated during the 1996 and 1997 fiscal years by the Franchise Tax Board in accordance with an agreement for a loan to be used for reimbursement of the board's departmental costs attributable to the commission's delinquency referral program. It would also declare that this act would not be implemented if federal law and regulations do not permit this funding arrangement.



The bill would also make various technical, nonsubstantive changes.

Vote: $\frac{2}{3}$. Appropriation: yes. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 16583.5 is added to the
2 Government Code, to read:

3 16583.5. (a) Notwithstanding any other provision of
4 law, the Student Aid Commission shall enter into an
5 interagency agreement with the Franchise Tax Board to
6 collect all or part of the commission's outstanding
7 accounts receivable.

8 (b) (1) The Student Aid Commission shall develop
9 criteria and policy that would define when an account
10 receivable is delinquent and thereby subject to collection
11 by the Franchise Tax Board. For purposes of this section,
12 at a minimum, "delinquent" means that all of the
13 following conditions exist prior to referral to the
14 Franchise Tax Board:

15 (A) The amount is due and payable.

16 (B) Notice of the amount due and payable was sent to
17 the debtor at the last known address maintained by the
18 Student Aid Commission.

19 (C) In the case of complaints or protests by the debtor,
20 the debtor has been provided all required administrative
21 hearings, and does not have a judicial proceeding
22 pending with respect to that debt.

23 *(D) Notwithstanding Section 16584, the Student Aid*
24 *Commission has referred the account to a private debt*
25 *collector and, not less than nine months following that*
26 *referral, the private debt collector has been unable to*
27 *collect the account.*

28 (2) This policy and criteria may include a minimum
29 dollar threshold for delinquencies that would be referred
30 to the Franchise Tax Board.

31 (c) When a delinquency is referred to the Franchise
32 Tax Board pursuant to this section, the amount of the
33 delinquency and any interest on the delinquency or other



1 amounts that accrued prior to or accrue subsequent to the
 2 date of referral, shall be collected by the Franchise Tax
 3 Board in any manner authorized under the law for
 4 collection of a delinquent personal income tax liability,
 5 including, but not limited to, issuance of an order and levy
 6 under Article 4 (commencing with Section 706.070) of
 7 Chapter 5 of Division 2 of Title 9 of Part 2 of the Code of
 8 Civil Procedure in the manner provided for earnings
 9 withholding orders for taxes and including entering into
 10 agreements as authorized by Sections 19376 and 19377 of
 11 the Revenue and Taxation Code.

12 (d) Any law providing for the collection of a
 13 delinquent personal income tax liability, including Part
 14 10.7 (commencing with Section 21001) of Division 2 of the
 15 Revenue and Taxation Code, which includes Section
 16 21021 of the Revenue and Taxation Code relating to the
 17 awarding of damages for reckless disregard of
 18 procedures, shall apply to delinquencies referred under
 19 this section in the same manner and with the same force
 20 and effect and to the full extent as if the language of the
 21 law had been incorporated in full into this chapter, except
 22 to the extent that any provision is either inconsistent with
 23 this chapter or is not relevant to this chapter.

24 (e) The Franchise Tax Board shall provide notice to
 25 the debtor at the most recent address of record or last
 26 known address that payment by the debtor of the amount
 27 due within a certain timeframe, which at a minimum shall
 28 be 10 days after the date of the notice, shall prevent
 29 further collection action.

30 (f) Any information, information sources, or
 31 enforcement remedies and capabilities available to the
 32 Student Aid Commission shall be available to the
 33 Franchise Tax Board for purposes of collecting
 34 delinquencies referred under this section.

35 (g) Any agreement entered into pursuant to
 36 subdivision (a) shall include all of the following:

37 (1) The criteria, standards, and procedures for
 38 referring the delinquencies to the Franchise Tax Board
 39 for collection under subdivision (c).



1 (2) A statement that the delinquencies referred to the
2 Franchise Tax Board are delinquent, as defined by the
3 Student Aid Commission under paragraph (1) of
4 subdivision (b), and subject to collection by the Franchise
5 Tax Board.

6 (3) A statement that in the event a person or entity
7 whose delinquency is referred under subdivision (c)
8 notifies the Franchise Tax Board that there is a
9 disagreement as to the amount due subject to collection,
10 the Franchise Tax Board may, upon notification by that
11 person or entity, refer the person or entity to the Student
12 Aid Commission, return the account to the Student Aid
13 Commission, or rescind any collection action that may
14 have been taken. No account that is returned pursuant to
15 this subdivision shall be again referred as a delinquency
16 unless the delinquency has been reduced to a judgment
17 or is an enforceable lien, if required to satisfy due process
18 requirements.

19 (4) A statement that the Franchise Tax Board's
20 departmental costs attributable to the accounts referred
21 under subdivision (c) shall be reimbursed from a
22 percentage of the referred delinquencies collected by the
23 Franchise Tax Board not to exceed 15 percent of the
24 amount collected by the Franchise Tax Board on behalf
25 of the Student Aid Commission.

26 (5) A statement that the debtor may be allowed an
27 opportunity to voluntarily enter into an installment
28 payment agreement as provided under Section 19008 of
29 the Revenue and Taxation Code.

30 (h) For purposes of this section, "departmental costs
31 attributable to the accounts referred under subdivision
32 (c)" means the Franchise Tax Board's costs incurred to
33 administer, maintain, and support the collection of
34 delinquencies specified in this section.

35 (i) The activities required to implement and
36 administer this section shall not interfere with the
37 primary mission of the Franchise Tax Board to administer
38 Part 10 (commencing with Section 17001), and Part 11
39 (commencing with Section 23001), of Division 2 of the
40 Revenue and Taxation Code.



1 (j) Delinquencies referred to the Franchise Tax Board
2 for collection pursuant to this section shall accrue interest
3 in an amount computed by the Student Aid Commission,
4 as permitted by law.

5 (k) In no event shall amounts collected pursuant to
6 this section be construed to be an income tax
7 delinquency. In the case of a bankruptcy action, any
8 delinquency referred under this section shall not be
9 construed to be an income tax delinquency.

10 (l) The Legislature finds and declares that it is
11 essential for fiscal purposes that the program authorized
12 by this part be expeditiously implemented. Accordingly,
13 Chapter 3.5 (commencing with Section 11340) of Part 1
14 of Division 3 shall not apply to any standard, criteria,
15 procedure, determination, rule, notice or guideline
16 established or issued by the Franchise Tax Board, Student
17 Aid Commission, or Controller in implementing and
18 administering the delinquency referral program
19 authorized by this section.

20 ~~(m) This section shall remain in effect only until~~
21 ~~January 1, 2001, and as of that date is repealed, unless a~~
22 ~~later enacted statute, that is enacted before January 1,~~
23 ~~2001, deletes or extends that date.~~

24 SEC. 2. Section 16583.7 is added to the Government
25 Code, to read:

26 16583.7. ~~(a)~~ Upon concurrence of the Controller,
27 amounts collected by the Franchise Tax Board pursuant
28 to this section shall be deposited and distributed as
29 specified in an interagency agreement with the Student
30 Aid Commission. Notwithstanding Section 13340, moneys
31 deposited pursuant to this subdivision are hereby
32 continuously appropriated, without regard to fiscal years,
33 for purposes of making distributions in accordance with
34 the interagency agreement.

35 ~~(b) This section shall remain in effect only until~~
36 ~~January 1, 2001, and as of that date is repealed, unless a~~
37 ~~later enacted statute, that is enacted before January 1,~~
38 ~~2001, deletes or extends that date.~~

39 SEC. 3. Section 16584 of the Government Code is
40 amended to read:



1 16584. (a) A participant may enter into a contract
2 with a private debt collector or private person or entity
3 for the assignment or sale of all or part of its accounts
4 receivable, provided that the participant does all of the
5 following:

6 (1) Determines the assignment or sale is likely to
7 generate more net revenue or net value than equivalent
8 state efforts including collections efforts pursuant to
9 Section 16583.5.

10 (2) Determines the assignment or sale will not
11 compromise future state revenue collections.

12 (3) Notifies the debtor in writing at the address of
13 record that the alleged accounts receivable debt will be
14 turned over for private collection unless the debt is paid,
15 or appealed within a time period, as determined by the
16 participant.

17 (b) No participant shall enter into a contract for the
18 assignment or sale of any accounts receivable pursuant to
19 subdivision (a) if the accounts receivable debt has been
20 contested.

21 (c) Any contract entered into pursuant to this section
22 is subject to Article 4 (commencing with Section 10335)
23 of Chapter 2 of Part 2 of Division 2 of the Public Contract
24 Code.

25 SEC. 4. Section 16587 of the Government Code is
26 repealed.

27 SEC. 5. Section 19532 of the Revenue and Taxation
28 Code, as amended by Chapter 33 of the Statutes of 1995,
29 is amended to read:

30 19532. In the event the debtor has more than one debt
31 being collected by the Franchise Tax Board and the
32 amount collected by the Franchise Tax Board is
33 insufficient to satisfy the total amount owing, the amount
34 collected shall be applied in the following priority:

35 (a) Payment of any taxes, additions to tax, penalties,
36 interest, fees, or other amounts due and payable under
37 Part 10 (commencing with Section 17001), Part 11
38 (commencing with Section 23001), or this part.

39 (b) Payment of any debts referred for collection under
40 Article 5 (commencing with Section 19271) of Chapter 5.



1 (c) Payment of delinquent wages collected pursuant
2 to the Labor Code.

3 (d) Payment of delinquencies collected under Section
4 10878.

5 (e) Payment of any amounts due that are referred for
6 collection under Article 6 (commencing with Section
7 19280) of Chapter 5.

8 (f) Payment of any amounts that are referred for
9 collection pursuant to Section 62.9 of the Labor Code.

10 (g) Payment of delinquent penalties collected for the
11 Department of Industrial Relations pursuant to the Labor
12 Code.

13 (h) Payment of delinquent fees collected for the
14 Department of Industrial Relations pursuant to the Labor
15 Code.

16 (i) Payment of delinquencies referred by the Student
17 Aid Commission pursuant to Section 16583.5 of the
18 Government Code.

19 SEC. 6. Section 19568 is added to the Revenue and
20 Taxation Code, to read:

21 19568. ~~(a)~~ Any information provided to, or obtained
22 by, the Franchise Tax Board for purposes of
23 administering Part 10 (commencing with Section 17001)
24 or Part 11 (commencing with Section 23001) may be used
25 by the Franchise Tax Board for purposes of collecting the
26 delinquencies referred pursuant to Section 16583.5 of the
27 Government Code.

28 ~~(b) This section shall remain in effect only until~~
29 ~~January 1, 2001, and as of that date is repealed, unless a~~
30 ~~later enacted statute, that is enacted before January 1,~~
31 ~~2001, deletes or extends that date.~~

32 SEC. 7. Nothing in this act shall preclude the taking
33 of any actions or the making of any adjustments that are
34 required to satisfy federal or other regulatory mandates
35 with respect to the collection of a Student Aid
36 Commission account receivable prior or subsequent to
37 the referral of that delinquency to the Franchise Tax
38 Board pursuant to Section 16583.5 of the Government
39 Code.



1 SEC. 8. To the extent permitted by federal law and
2 regulations, the Student Aid Commission shall enter into
3 a separate agreement with the Franchise Tax Board to
4 loan the board the sum of seven hundred ninety-eight
5 thousand dollars (\$798,000) which is hereby appropriated
6 for this purpose from the State Guaranteed Loan Reserve
7 Fund to be allocated during the 1996 and 1997 fiscal years
8 by the Franchise Tax Board in accordance with the
9 agreement. This sum shall be used for reimbursement of
10 the Franchise Tax Board's departmental costs
11 attributable to the development and implementation of
12 the Student Aid Commission's delinquency referral
13 program pursuant to Sections 16583.5 and 16583.7 of the
14 Government Code and repaid under the terms of the
15 agreement.

16 SEC. 9. This act shall not be implemented if federal
17 law and regulations do not permit the funding
18 arrangement specified in Section 8.

