

Sec. 3. This Act applies retroactively to January 1, 1995, for tax years beginning on or after that date. However, the retroactive application of this Act applies only to financial institutions that have an investment in an investment subsidiary on or after July 1, 1995.

Approved May 26, 1995

CHAPTER 194
STATE COLLECTION OF TAXES AND DEBTS
H.F. 549

AN ACT relating to the collection of taxes and debts owed to or collected by the state, including the renewal of registrations, the publication of information pertaining to certain taxes and debts, providing for an administrative levy to seize certain accounts of a debtor, the denial, revocation, suspension, or renewal of licenses authorized by the state, redistributing collected amounts, creating a driver's license indebtedness clearance pilot project, and other related matters, and providing an effective date.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 321.20, subsection 1, Code 1995, is amended to read as follows:

1. The name, social security number ~~if available~~, motor vehicle license number, date of birth, bona fide residence and mailing address of the owner ~~or if~~. If the owner is a firm, association, or corporation, the application shall contain the business address and federal employer identification number of the owner if available.

Sec. 2. Section 321.30, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 12. The department or the county treasurer knows that an applicant for renewal of a registration has a delinquent account, charge, fee, loan, taxes, or other indebtedness owed to or being collected by the state, from information received pursuant to section 421.17. An applicant may contest this action by requesting a contested case proceeding from the agency that referred the debt for collection pursuant to section 421.17. This subsection shall apply only to a renewal of registration and shall not apply to the issuance of an original registration or to the issuance of a certificate of title.

Sec. 3. Section 321.31, subsection 1, Code 1995, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The director shall maintain a records system of delinquent accounts owed to the state using information provided through the computerized data bank established in section 421.17. The department and county treasurers shall use the information maintained in the records system to determine if applicants for renewal of registration have delinquent accounts, charges, fees, loans, taxes, or other indebtedness owed to or being collected by the state as provided pursuant to section 421.17. The director and the director of revenue and finance shall establish procedures for updating the delinquent accounts records to add and remove accounts, as applicable.

Sec. 4. Section 321.40, Code 1995, is amended by adding the following new unnumbered paragraph after unnumbered paragraph 5:

NEW UNNUMBERED PARAGRAPH. The county treasurer shall refuse to renew the registration of a vehicle registered to the applicant if the county treasurer knows that the applicant has a delinquent account, charge, fee, loan, taxes, or other indebtedness owed to

or being collected by the state, from information provided pursuant to section 421.17. An applicant may contest this action by requesting a contested case proceeding from the agency that referred the debt for collection pursuant to section 421.17.

Sec. 5. Section 321.177, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 10. To any person who has a delinquent account owed to the state according to records provided to the department of transportation by the department of revenue and finance pursuant to section 421.17, unless the person provides to the department of transportation evidence of approval for issuance from the department of revenue and finance. The department of revenue and finance shall approve issuance if the applicant has made arrangements for payment of the debt with the agency, which is owed or is collecting the debt, to the satisfaction of the agency. This subsection is only applicable to those persons who are applying for issuance of a license in a county which is participating in the driver's license indebtedness clearance pilot project.

Sec. 6. **NEW SECTION.** 321.210B SUSPENSION FOR FAILURE TO PAY INDEBTEDNESS OWED TO THE STATE.

The department shall suspend the motor vehicle license of a person who has a delinquent account owed to the state according to records provided by the department of revenue and finance pursuant to section 421.17. A license shall be suspended until such time as the department of revenue and finance notifies the department of transportation that the licensee has made arrangements for payment of the debt with the agency which is owed or is collecting the debt. This section is only applicable to those persons residing in a county which is participating in the driver's license indebtedness clearance pilot project.

Sec. 7. Section 421.17, subsection 34, paragraph a, Code 1995, is amended to read as follows:

a. To establish, administer, and make available a centralized debt collection capability and procedure for the use by any state agency as defined in subsection 29 to collect delinquent accounts, charges, fees, loans, taxes, or other indebtedness due owed to or being collected by the state. The department's collection facilities shall only be available for use by other state agencies for their discretionary use when resources are available to the director and subject to the director's determination that use of the procedure is feasible. The director shall prescribe the appropriate form and manner in which this information is to be submitted to the office of the department. The obligations or indebtedness must be delinquent and not subject to litigation, claim, appeal, or review pursuant to the appropriate remedies of each state agency.

Sec. 8. Section 421.17, subsection 34, paragraph e, Code 1995, is amended to read as follows:

e. All state agencies shall be given access, at the discretion of the director, to the centralized computer data bank and, notwithstanding any other provision of law to the contrary, may deny, revoke, or suspend any license or deny any renewal authorized by the laws of this state to any person who has defaulted on an obligation owing owed to or collected by the state. The confidentiality provisions of sections 422.20 and 422.72 do not apply to tax information contained in the centralized computer data bank. State agencies shall endeavor to obtain the applicant's social security or federal tax identification number, or state driver's license number from all applicants.

Sec. 9. Section 421.17, subsection 34, Code 1995, is amended by adding the following new paragraph:

NEW PARAGRAPH. i. The director may distribute for publication the names, addresses, and amounts of indebtedness owed to or being collected by the state if the indebtedness is subject to the centralized debt collection procedure established in this subsection.

The director shall adopt rules to implement this paragraph, and the rules shall provide guidelines by which the director shall determine which names, addresses, and amounts of indebtedness may be distributed for publication. The director may distribute information for publication pursuant to this paragraph, notwithstanding sections 422.20, 422.72, and 423.23, or any other provision of state law to the contrary pertaining to confidentiality of information.

Sec. 10. NEW SECTION. 421.17A ADMINISTRATIVE LEVY.

1. **DEFINITIONS.** As used in this section, unless the context otherwise requires:

a. "Account" means "account" as defined in section 524.103, "share account or shares" as defined in section 534.102, or the savings or deposits of a member received or being held by a credit union, or certificates of deposit. "Account" also includes deposits held by an agent, a broker-dealer, or an issuer as defined in section 502.102. However, "account" does not include amounts held by a financial institution as collateral for loans extended by the financial institution.

b. "Bank" means "bank", "insured bank", "private bank", and "state bank" as these are defined in section 524.103.

c. "Credit union" means "credit union" as defined in section 533.51.

d. "Facility" means the centralized debt collection facility of the department of revenue and finance established pursuant to section 421.17, subsection 34.

e. "Financial institution" includes a bank, credit union, or savings and loan association. "Financial institution" also includes an institution which holds deposits for an agent, broker-dealer, or an issuer as defined in section 502.102.

f. "Obligor" means a person who is indebted to the state or a state agency for any delinquent accounts, charges, fees, loans, taxes, or other indebtedness due the state or indebtedness being collected by the state.

g. "Savings and loan association" means "association" as defined in section 534.102.

h. "Working days" means Monday through Friday, excluding the holidays specified in section 1C.2, subsections 1 through 9.

2. **PURPOSE AND USE.**

a. Notwithstanding other statutory provisions which provide for the execution, attachment, or levy against accounts, the facility may utilize the process established in this chapter to collect delinquent accounts, charges, fees, loans, taxes, or other indebtedness due the state or being collected by the state provided that any exemptions or exceptions which specifically apply to enforcement of such obligations also apply to this section.

b. An obligor is subject to this section if the obligor's debt is being collected by the facility.

c. Any amount forwarded by a financial institution under this chapter shall not exceed the delinquent or accrued amount of the obligor's debt being collected by the state.

3. **INITIAL NOTICE TO OBLIGOR.** The facility may proceed under this section only if notice has been provided to the obligor by regular mail to the last known address of the obligor, notifying the obligor that the obligor is subject to this section. The facility shall give twenty days' notice of its intention to use the levy process. The twenty-day notice period shall not be required if the facility determines that the collection of past due amounts would be jeopardized.

4. **VERIFICATION OF ACCOUNTS AND IMMUNITY FROM LIABILITY.**

a. The facility may contact a financial institution to obtain verification of the account number, the names and social security numbers listed for the account, and the account balance of an account held by an obligor. Contact with a financial institution may be by telephone or by written communication. The financial institution may require positive voice recognition and may require the telephone number of the authorized person from the facility before releasing an obligor's account information by telephone.

b. The financial institution is immune from any civil or criminal liability which might otherwise be incurred or imposed for information released by the financial institution to the facility pursuant to this section.

c. The financial institution or the facility is not liable for the cost of any early withdrawal penalty of an obligor's certificate of deposit.

5. ADMINISTRATIVE LEVY – NOTICE TO FINANCIAL INSTITUTION.

a. If an obligor is subject to this section, the facility may initiate an administrative action to levy against an account of the obligor.

b. The facility shall send a notice to the financial institution with which the account is placed, directing that the financial institution forward all or a portion of the moneys in the obligor's account to the facility.

c. The notice to the financial institution shall contain all of the following:

(1) The name and social security number of the obligor.

(2) A statement that the obligor is believed to have an account at the financial institution.

(3) A statement that pursuant to the provisions of this section, the obligor's account is subject to seizure and the financial institution is authorized and required to forward moneys to the facility.

(4) The maximum amount that shall be forwarded by the financial institution, which shall not exceed the delinquent or accrued amount of debt being collected by or owed to the state by the obligor.

(5) The prescribed time frame which the financial institution must meet in forwarding any amounts.

(6) The address of the facility and the account number utilized by the facility for the obligor.

(7) A telephone number, address, and contact name of the facility initiating the action.

6. ADMINISTRATIVE LEVY – NOTICE TO OBLIGOR AND OTHER ACCOUNT HOLDERS.

a. The facility may administratively initiate an action to seize one or more accounts of an obligor who is subject to this section and section 421.17, subsection 34.

b. The facility shall notify an obligor subject to this section. The notice shall contain all of the following:

(1) The name and social security number of the obligor.

(2) A statement that the obligor is believed to have an account at the financial institution.

(3) A statement that pursuant to the provisions of this section, the obligor's account is subject to seizure and the financial institution is authorized and required to forward moneys to the facility.

(4) The maximum amount to be forwarded by the financial institution, which shall not exceed the delinquent or accrued amount of debt being collected by or owed to the state by the obligor.

(5) The prescribed time frames the financial institution must meet in forwarding any amounts.

(6) A statement that any challenge to the action must be in writing and must be received by the facility within ten days of the date of the notice to the obligor.

(7) The address of the facility and the account number utilized by the facility for the obligor.

(8) A telephone number, address, and contact name of the facility initiating the action.

c. The facility shall forward the notice to the obligor by regular mail within two working days of sending the notice to the financial institution pursuant to subsection 5, paragraph "b".

d. The facility shall notify any party known to have an interest in the account. The notice shall contain all of the following:

(1) The name of the obligor.

(2) The name of the financial institution.

(3) A statement that the account in which the party is known to have an interest is subject to seizure.

(4) A statement that any challenge to the action must be in writing and must be received by the facility within ten days of the date of the notice to the party known to have an interest.

(5) The address of the facility and the name of the obligor who also has an interest in the account.

(6) A telephone number, address, and contact name of the facility initiating the action.

e. The facility shall forward the notice to the party known to have an interest by regular mail within two working days of sending the notice to the financial institution pursuant to subsection 5, paragraph "b".

7. RESPONSIBILITIES OF FINANCIAL INSTITUTION. Upon receipt of a notice under subsection 5, paragraph "b", the financial institution shall do all of the following:

a. Immediately encumber funds in any account in which the obligor has an interest to the extent of the debt indicated in the notice from the facility.

b. No sooner than fifteen days, and no later than twenty days from the date the financial institution receives the notice under subsection 5, paragraph "b", unless notified by the facility of a challenge by the obligor or an account holder of interest, forward the moneys encumbered to the facility with the obligor's name and social security number, the facility's account number for the obligor, and any other information required in the notice.

c. The financial institution may assess a fee against the obligor, not to exceed twenty-five dollars, for forwarding of moneys to the facility. This fee is in addition to the amount owed to or being collected by the state by the obligor. If insufficient moneys are available in the debtor's account to cover the fee and the amount in the notice, the institution may deduct the fee amount prior to forwarding moneys to the facility and the amount credited to the obligor's account with the state shall be reduced by the fee amount.

8. CHALLENGES TO ACTION.

a. Challenges under this section may be initiated only by an obligor or by an account holder of interest. Reviews by the facility under this section are not subject to chapter 17A.

b. The person challenging the action shall submit a written challenge to the person identified as the contact for the facility in the notice, within ten days of the date of the notice.

c. The facility, upon receipt of a written challenge, shall review the facts of the case with the challenging party within ten days of receipt of the challenge. If the challenging party is not available for the review on the scheduled date, the review shall take place without the challenging party being present. Information in favor of the challenging party shall be considered by the facility in the review. The facility may utilize additional information if such information is available. Only a mistake of fact, including, but not limited to, a mistake in the identity of the obligor or a mistake in the amount owed to or being collected by the state shall be considered as a reason to dismiss or modify the action.

d. If the facility determines that a mistake of fact has occurred, the facility shall proceed as follows:

(1) If a mistake in identity has occurred or the obligor does not have a delinquent or accrued amount being collected by or owed to the state, the facility shall notify the financial institution that the administrative levy has been released. The facility shall provide a copy of the notice to the obligor by regular mail.

(2) If the delinquent or accrued amount being collected by or owed to the state is less than the amount indicated in the notice, the facility shall provide a notice to the financial institution of the revised amount, with a copy of the original notice, and issue a notice to the obligor by regular mail. Upon written receipt of the notice from the facility, the financial institution shall release the funds in excess of the revised amount and forward the revised amount to the facility pursuant to the administrative levy.

e. If the facility finds no mistake of fact, the facility shall provide a notice to that effect to the challenging party by regular mail and notify the financial institution to forward the moneys pursuant to the administrative levy.

f. The challenging party shall have the right to file an action for wrongful levy in district court within thirty days of the date of the notice in paragraph "e", either in the county where the obligor or the party known to have an interest in the account resides or in Polk county where the facility is located.

Sec. 11. DRIVER'S LICENSE INDEBTEDNESS CLEARANCE PILOT PROJECT.

1. As used in this section, unless the context otherwise requires:

a. "Department" means the state department of transportation.

b. "Driver's license" means "motor vehicle license" as defined in section 321.1.

2. The department, in consultation with the department of revenue and finance, as well as other applicable state agencies, shall establish a driver's license indebtedness clearance pilot project. The department shall determine which and how many counties to include in the pilot project.

3. In pilot project counties, the department shall not issue a driver's license, shall not renew a driver's license, and shall suspend a driver's license if the applicant or licensee has a delinquent account, charge, fee, loan, or other indebtedness owed to or being collected by the state, unless the applicant or licensee has made arrangements for the payment of the debt with the agency, which is owed or is collecting the debt, to the satisfaction of the agency. A determination of money owed shall be based upon information provided pursuant to section 421.17. An applicant or licensee may contest this action by requesting a contested case proceeding from the agency that referred the debt for collection pursuant to section 421.17.

4. The department may issue a temporary permit allowing an applicant or licensee to operate a motor vehicle under limited circumstances if an applicant is denied a driver's license or, if a driver's license is suspended pursuant to this section. The department shall give special consideration to an applicant or licensee who is required to operate a motor vehicle for employment purposes.

5. The department shall utilize the records system maintained pursuant to section 321.31, subsection 1, to implement the pilot project. Notwithstanding any provisions of law to the contrary, the department of revenue and finance may exchange information with the department for purposes of the pilot project.

6. The pilot project shall commence on January 1, 1996, and shall end on January 1, 1997. The department shall submit a report to the governor and the general assembly by April 1, 1997, providing a summary of the pilot project, any amounts collected as a result of the pilot project, and any commensurate recommendations. The department shall adopt rules in accordance with chapter 17A to implement the pilot project in accordance with the provisions of this section.

Sec. 12. This Act takes effect January 1, 1996.

Approved May 30, 1995