

RESOLUTION NUMBER 599

A RESOLUTION RELATING TO THE COLLECTION OF DELINQUENT ACCOUNTS:

WHEREAS, the City currently uses Valley Credit Service, Inc. to assist in the collection of delinquent accounts owed to the City;

WHEREAS, the Oregon Legislature passed HB 2055 which authorizes public bodies to add a collection agency's commission rate to the principal of the account assigned for collection; and

WHEREAS, use of this new authority may lead to being able to more fully collect amounts owed it;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF AURORA THAT:

Section 1. The City of Aurora authorizes Valley Credit Service, Inc. to add their commission of 25% to the principal of accounts assigned to it for collection after July 1, 2010.

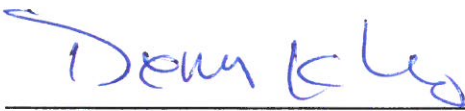
Section 2. The City shall notify those responsible for payment of accounts of this change in accordance with ORS 697.105, 697.115, and 293.231.

Section 3. The City Recorder is authorized to execute the HB2055 - AGREEMENT with Valley Credit Services, Inc.


ADOPTED by the Aurora City Council at a City Council meeting held on Tuesday, May 11, 2010. This resolution is effective May 11, 2010.

Dated this 11 day of May, 2010.

APPROVED AS TO FORM:

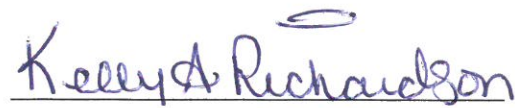


City Attorney



Jim Meirow, Mayor

ATTEST



City Recorder

697.105 Fee for collection of debt owed public body; notice to debtor; amount. (1) Except as provided in ORS 1.202 and 293.231, if a public body, as defined in ORS 174.109, uses a private collection agency to collect a debt owed to the public body, the public body may add a reasonable fee to the amount of the debt, payable by the debtor, to compensate the public body, in whole or in part, for the collection agency fee incurred or to be incurred.

(2) A fee may not be added under subsection (1) of this section unless the public body has provided notice to the debtor:

- (a) Of the existence of the debt;
- (b) That the debt may be assigned to a private collection agency for collection; and
- (c) Of the amount of the fee that may be added to the debt under subsection (1) of this section.

(3) Except as provided by federal law, the public body may not add a fee under this section that exceeds the collection fee of the private collection agency. [2003 c.66 §1; 2007 c.204 §1]

697.110 [Repealed by 1959 c.525 §36]

697.111 [1959 c.525 §12; 1961 c.686 §2; 1963 c.558 §15; 1974 c.25 §5; 1975 c.364 §11; repealed by 1981 c.85 §17]

697.115 Fee for collection of commercial debt; amount; limit. (1) As used in this section, "commercial debt" means any obligation for payment of money or thing of value arising out of an agreement or contract, express or implied, in which the transaction that is the subject of the agreement or contract is not primarily for personal, family or household purposes.

(2) A person using a private collection agency to collect a commercial debt owed to the person may add a reasonable fee to the amount of the commercial debt, payable by the debtor, to compensate the person, in whole or in part, for the collection agency fee incurred or to be incurred. A person may not add a fee under this section that:

- (a) Exceeds the collection fee of the private collection agency; or
- (b) Was not authorized in the agreement or contract creating the commercial debt. [2003 c.66 §2; 2007 c.204 §2]

293.231 Collection of liquidated and delinquent accounts by private collection agency or Department of Revenue; rules; fee added to debt. (1) Except as provided in subsections (4) to (9) of this section, a state agency, unless otherwise prohibited by law, shall offer for assignment every liquidated and delinquent account to a private collection agency or to the Department of Revenue as provided in ORS 293.250 not later than:

(a) Ninety days from the date the account was liquidated if no payment has been received on the account within the 90-day period; or

(b) Ninety days from the date of receipt of the most recent payment on the account.

(2) Nothing in subsection (1) of this section prohibits a state agency from offering for assignment a liquidated and delinquent account to a private collection agency at any time within the 90-day period.

(3) If, after a reasonable time, the private collection agency is unable to collect the account, the private collection agency shall notify the state agency that assigned the account that it has been unable to collect the account and shall relinquish the account to the state agency. A private collection agency that collects an account under this section shall be held to the same standard of confidentiality, service and courtesy imposed on the state agency that assigned the account.

(4) If a state agency assigns a liquidated and delinquent account to the Department of Revenue as provided in ORS 293.250, the department shall have six months from the date of assignment to collect a payment. If the department does not collect a payment within that six-month period or if six months have elapsed since the date of receipt of the most recent payment on the account, the department shall notify the state agency. The state agency shall then immediately offer for assignment the debt to a private collection agency.

(5) The provisions of subsection (1) of this section do not apply to a liquidated and delinquent account that is prohibited by state or federal law or regulation from assignment or collection.

(6) The Oregon Department of Administrative Services may adopt rules exempting specified kinds of liquidated and delinquent accounts from the time periods established in subsections (1), (2) and (4) of this section.

(7) The Oregon Department of Administrative Services shall adopt rules exempting liquidated and delinquent accounts that originate in the Department of Revenue or the Employment Department from the time periods established in subsections (1), (2) and (4) of this section.

(8) A liquidated and delinquent account that is subject to assignment under this section shall be assigned to a private collection agency if more than one year has elapsed without a payment on the account.

(9) Notwithstanding subsection (1) of this section, a state agency may, at its discretion, choose not to offer for assignment to a private collection agency a liquidated and delinquent account that:

(a) Is secured by a consensual security interest in real or personal property;

(b) Is a court-ordered judgment that includes restitution or a payment to the Department of Justice Crime Victims' Assistance Section;

(c) Is in litigation, including bankruptcy, arbitration and mediation;

(d) Is a student loan owed by a student who is attending school;

(e) Is owed to a state agency by a local or state government or by the federal government;

(f) Is owed by a debtor who is hospitalized in a state hospital as defined in ORS 162.135 or who is on public assistance as defined in ORS 411.010;

(g) Is owed by a debtor who is imprisoned;

(h) Is less than \$100, including penalties; or

(i) Would result in loss of federal funding if assigned.

(10) Nothing in this section prohibits a state agency from collecting a tax offset after a liquidated and delinquent account is assigned to a private collection agency.

(11) For the purposes of this section, a state agency shall be deemed to have offered for assignment an account if:

(a) The terms of the offer are of a type generally acceptable within the collections industry for the type of account offered for assignment; and

(b) The offer is made to a private collection agency that engages in collecting on accounts of the type sought to be assigned or is made generally available to private collection agencies through a bid or request for proposal process.

(12) A state agency that retains a private collection agency under this section may add a fee to the amount of the liquidated and delinquent account as provided in ORS 697.105. A fee may not be added under this subsection unless the state agency has provided notice to the debtor:

- (a) Of the existence of the debt;
- (b) That the debt may be assigned to a private collection agency for collection; and
- (c) Of the amount of the fee that may be added to the debt under this subsection.

(13) Except as provided by federal law, the state agency may not add a fee under subsection (12) of this section that exceeds the collection fee of the private collection agency. [1999 c.1092 §3; 2001 c.218 §1; 2001 c.233 §1; 2003 c.66 §3; 2003 c.805 §1]

Note: See note under 293.227.