

# State Debt Coordinator

This Act creates the office of state debt coordinator and related duties. It directs the coordinator to study developing a data match system using automated data exchanges or other means to identify people who owe delinquent obligations to the state. The Act gives the coordinator the authority to file liens to help collect debts under certain circumstances.

The bill also directs the state debt coordinator to establish a delinquent court debt settlement program and a delinquent court debt amnesty program.

Submitted as:

Iowa

[Senate File 2383 \(Enrolled version\)](#)

Status: Enacted into law in 2010.

## Suggested State Legislation

(Title, enacting clause, etc.)

1           Section 1. [*Short Title*.] This Act shall be cited as “An Act to Establish the Office of State  
2 Debt Coordinator.”

3  
4           Section 2. [*State Debt Coordinator*.]

5           A. The [office of the state debt coordinator] is established within the [department of  
6 revenue] for administrative and budgetary purposes. The [office] is to be headed and  
7 administered by the [state debt coordinator], otherwise referred to as the [coordinator].

8           B. The [governor] shall appoint the [coordinator], subject to [senate confirmation]. The  
9 [coordinator] shall possess an expert knowledge of and skills in the field of debt collection and  
10 have an intricate understanding of the workings of state government. The [coordinator’s] term of  
11 office shall be [four] years, beginning [July 1] of the year of appointment and ending on [June  
12 30] of the year of expiration.

13           C. If a vacancy occurs in the [office of the state debt coordinator], the vacancy shall be  
14 filled for the unexpired portion of the term in the same manner as the original appointment was  
15 made.

16           D. The [coordinator] shall not engage in any occupation, business, or profession that  
17 would interfere with or be inconsistent with the [coordinator’s] duties. The [coordinator] shall  
18 not serve on or under any committee of any political party or actively campaign on behalf of a  
19 candidate for elective office.

20           E. The duties of the [coordinator] shall include all of the following:

21               1. Coordinating the internal operations of the office and developing and  
22 implementing policies and procedures designed to ensure the efficient administration of the  
23 office.

24               2. Appointing all personnel deemed necessary for the administration of the  
25 functions of the office as provided by this Act.

26               3. Developing and recommending legislative proposals deemed necessary for the  
27 continued efficiency of the office’s functions and reviewing legislative proposals related to  
28 matters within the office’s purview.

29               4. Reviewing the debt collection practices of each branch of state government,  
30 except the practices related to the collection of delinquent child support obligations.

- 31 5. Coordinating the collection efforts of each branch of state government.  
32 6. Making recommendations to the [general assembly] to improve and increase  
33 debt collection efficiencies and practices.  
34 7. Filing a notice of a lien and negotiating a settlement as provided in this Act.  
35 8. Managing the delinquent court debt settlement program and delinquent court  
36 debt management program established by this Act.  
37 9. Accepting and maintaining county attorney collection reports required under  
38 [insert citation].  
39 10. Accepting and reviewing county attorney applications to the debt settlement  
40 program established under this Act.  
41 11. Adopting rules deemed necessary for the administration of this Act.  
42 12. Assisting the [director of revenue] in preparing the annual budget request  
43 related to the [office] pursuant to [insert citation].  
44 13. Reporting [annually] to the [department of management] and the [legislative  
45 services agency] on additional full-time equivalent positions added during the previous fiscal  
46 year and the direct and indirect costs related to adding such full-time equivalent positions.
- 47 F. The [state debt coordinator] shall have the authority to appoint a designee to carry out  
48 certain duties provided in this Act.
- 49 G. Notwithstanding any other law to the contrary, the [office of the state debt  
50 coordinator] shall be provided access to all state debt collection information, including full  
51 viewing access to the [state court information system] established under [insert citation], for the  
52 purpose of collecting personal identifying information and collecting or coordinating debt  
53 collection efforts. This section does not apply to debt collection information related to delinquent  
54 child support obligations. Personal identifying information or financial information obtained by  
55 the [state debt coordinator] or a designee shall not be divulged to any person or entity, other than  
56 to the debtor, unless the information is used in a matter related to the collection of a debt  
57 obligation owed the state.
- 58 H. The [state debt coordinator], in consultation with the [superintendent of banking and  
59 the superintendent of credit unions], shall study the feasibility of developing a data match system  
60 using automated data exchanges or other means to identify people who owe delinquent debt  
61 obligations to the state. The [state debt coordinator] shall file a report detailing any  
62 recommendations related to the feasibility of developing a data match system to identify people  
63 owing delinquent debt obligations to the state. The report shall be filed by the [state debt  
64 coordinator] with the [chairpersons and ranking members of the appropriations committees of the  
65 senate and the house of representatives and with the legislative services agency] by [insert date].

66  
67 Section 3. *[Notice of Lien in Civil Action.]*

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

- 69 1. “Insurance company” means an insurer organized or operating under [insert  
70 citation], or authorized to do business in this state as an insurer or an insurance producer under  
71 [insert citation].  
72 2. “Third party” means an individual, institution, corporation, or public or private  
73 agency which is or may be liable to pay all or part of a debtor’s monetary claim. “Third party”  
74 does not include a financial institution as defined in [insert citation].

75 B. When a debt obligation is owed the state, the [state debt coordinator], on behalf of the  
76 state, shall have a right to a lien against all monetary claims arising from a civil action which the  
77 debtor may file against a third party. A lien under this section becomes effective once the [state  
78 debt coordinator] files a notice of lien with the clerk of the district court in the county where the  
79 civil action identified by the [state debt coordinator] is filed and sends notice of the lien to the

80 debtor and to the debtor's attorney or other representative, if applicable. To be effective against a  
81 monetary claim, the notice of lien must be filed before a third party has concluded a final  
82 settlement with the debtor, the debtor's attorney, or other representative. The lien shall only be  
83 effective against the monetary claim in the civil action against which the lien is filed. The third  
84 party shall obtain a written determination from the [state debt coordinator] concerning the  
85 amount of the lien before a settlement is deemed final for purposes of this section. A  
86 compromise, including but not limited to a settlement, waiver, or release, of a monetary claim  
87 under this section does not defeat the [state debt coordinator's] lien except upon written  
88 agreement by the [coordinator] or the [coordinator's designee]. A settlement, award, or judgment  
89 structured in any manner that does not include a debt obligation owed the state does not defeat  
90 the [state court debt coordinator's] lien if there is any recovery by the debtor unless a written  
91 agreement has been entered into between the [state debt coordinator] or the [coordinator's  
92 designee] and the debtor.

93 C. The [judicial branch] shall cooperate with the [state debt coordinator] to determine the  
94 most efficient way to identify a debtor who has a claim against a third party. The [state debt  
95 coordinator] shall be provided viewing access to the [state court information system] established  
96 under [insert citation] to determine if a debtor owes a debt obligation to the state. The debtor's  
97 attorney shall not have the responsibility to notify the state that a debtor has filed a civil action  
98 against a third party.

99 D. The [state debt coordinator's] lien is valid and binding on an attorney, insurer, or other  
100 third party only upon actual notice given by the [state debt coordinator].

101 E. An insurer or attorney representing a debtor on a monetary claim upon which the [state  
102 debt coordinator] has a lien under this section shall notify the [state debt coordinator] of a  
103 negotiated settlement or verdict, if actual notice of the lien has been provided in the following  
104 manner:

105 1. The mailing and deposit in a United States Post Office or public mailing box of  
106 the notice, addressed to the debtor and to the debtor's attorney or other representative, if  
107 applicable, at the location used for service of original notice.

108 2. The mailing and deposit in a United States Post Office or public mailing box of  
109 the notice, addressed to a third party, at the location used for service of original notice.

110 F. Upon resolution of the civil action against which a lien has been filed and actual notice  
111 of the lien has been given, the court costs and reasonable attorney fees and expenses, hospital  
112 liens filed pursuant to [insert citation] and other subrogated medical expenses shall first be  
113 deducted from any total judgment or settlement obtained. At least [one-third] of the remaining  
114 balance shall then be deducted and paid to the debtor. From the remaining balance, the [state  
115 debt coordinator] shall have the authority to negotiate a settlement of any debt obligation owed  
116 the state that is noted in the lien, including forgiving the entire balance due, based upon the  
117 circumstances of the case, costs incurred in pursuing the matter, and the element of the damages  
118 awarded. After deducting payments in accordance with this subsection and negotiating a  
119 settlement of the lien, any payments to satisfy the lien shall be paid to the [state debt  
120 coordinator]. The [state debt coordinator] shall transfer any moneys collected to the appropriate  
121 accounts to satisfy the debt owed. The [state debt coordinator] shall file a satisfaction of the lien  
122 in the civil action if the [state debt coordinator], pursuant to this subsection, settles any part of  
123 the debt obligation owed the state.

124 G. In circumstances where a lien encompasses multiple claims by state entities, the  
125 priority of payment made to the [state debt coordinator] shall first be a credit against tax due as  
126 provided in [insert citation], and the remaining balance shall be distributed in accordance with  
127 [insert citation].

128 H. During the negotiation process pursuant to this section the [state debt coordinator]  
129 shall make a determination whether the amount to be received by the [coordinator] under  
130 paragraph (F) of this section shall be considered as full payment of the debt obligation owed the  
131 state. If the [state debt coordinator] settles any debt obligation owed the state that is for less than  
132 the actual amount owed the state, the [state debt coordinator] may determine that the debt  
133 obligation owed the state is paid in full. If settlement is reached that is for less than the amount of  
134 the debt obligation owed the state, and the [state debt coordinator] notifies the applicable state  
135 department, agency, or branch that the debt obligation is paid in full, the state department,  
136 agency, or branch receiving the notification shall indicate in the records of the state department,  
137 agency, or branch that the debt obligation owed the department, agency, or branch is paid in full.

138 I. Except as provided in subsection (J) of this section, the [state debt coordinator] may  
139 enforce its lien by a civil action against any liable third party if a judgment or settlement was  
140 paid to the debtor without notifying the [state debt coordinator] as provided in this section.

141 J. An insurance company that makes a payment to the debtor or the debtor's attorney in a  
142 civil action that is subject to a lien under this section shall have no further liability for the lien  
143 filed in the civil action.

144

145 Section 4. *[Delinquent Court Debt Settlement Program.]*

146 A. As used in this section, "eligible debt" means all delinquent court debt obligations  
147 defined pursuant to [insert citation] and owed the state, except as provided in subsection (C).  
148 "Eligible debt" includes any interest and penalties assessed against such debt obligations.

149 B. The [state debt coordinator], in consultation with the other branches of state  
150 government, shall establish a [debt settlement program].

151 C. The following debt obligations are ineligible for the program:

152 1. Delinquent debt obligations that were imposed less than [four years] prior to  
153 the date of the application.

154 2. Victim restitution as defined in [insert citation].

155 3. Civil penalties assessed pursuant to [insert citation].

156 4. Jail fees charged pursuant to [insert citation].

157 D. The following people are ineligible for the program:

158 1. A person whose income level exceeds [two hundred percent of the United  
159 States poverty level] as defined by the most recently revised poverty income guidelines  
160 published by the United States Department of Health and Human Services.

161 a. The [coordinator] may determine that a person whose income is at or  
162 below [two hundred percent of the United States poverty level] as defined by the most recently  
163 revised poverty income guidelines published by the United States Department of Health and  
164 Human Services, is ineligible for the program if the [debt coordinator] determines the person is  
165 able to pay the full amount of the delinquent debt.

166 b. In making the determination of a person's ability to pay the full amount  
167 of the delinquent debt, the [state debt coordinator] shall consider not only the person's income,  
168 but also the availability of any assets subject to execution, including but not limited to cash,  
169 stocks, bonds, and any other property which may be applied to the eligible debt.

170 2. A person who is in jail, prison, or who is under supervision during the period of  
171 incarceration or supervision.

172 3. A person who has previously participated in the program.

173 E. A person paying a delinquent court debt obligation through an established payment  
174 plan with the clerk of the district court, with the [centralized collection unit of the department of  
175 revenue] or its [designee], with a county attorney or the county attorney's designee, or with a  
176 private collection designee, is eligible for the [debt settlement program] if the person and debt

177 are eligible and if the collecting entity is a debt settlement collection designee as defined under  
178 [insert citation]. The distribution of any moneys collected by the [debt settlement collection  
179 designee] shall be as provided in [insert citation].

180 F. Under the program the [state debt coordinator] is authorized to forgive not more than  
181 [fifty percent] of all eligible debt obligations due.

182 G. Payment to the [state debt coordinator] under the program shall be provided in a lump  
183 sum.

184 H. The program shall provide that upon written application and payment of the agreed  
185 upon percentage of eligible debt obligation due to the state, the state shall forgive any remaining  
186 balance of eligible debt obligation due and shall not seek any contempt or civil action or criminal  
187 prosecution against the person related to the eligible debt obligation forgiven under the program.  
188 Upon the forgiveness of the remaining balance of the eligible debt pursuant to the program, the  
189 eligible debt shall be considered by the state as paid in full.

190 I. [A written application to the program] shall contain all case numbers associated with  
191 the eligible debt obligation due and a general description of such debt.

192 J. Failure to pay the amount agreed upon by the date specified shall bar the person's  
193 participation in the program for life.

194 K. A person who participates in the program shall relinquish all administrative and  
195 judicial rights to challenge the imposition and the amount of the eligible debt obligation owed.

196 L. Upon paying the agreed upon amount required under subsection (G), the [state debt  
197 coordinator] shall provide the person with a certified document detailing the case numbers paid  
198 in full under the program. Any state department, agency, or branch shall, upon the filing of a  
199 certified document detailing the cases paid in full under the program, indicate in the records of  
200 the department, agency, or branch that the case is in fact paid in full with respect to the eligible  
201 debt obligations paid under the program.

202 M. The [coordinator] shall prepare and make available debt settlement application forms  
203 which contain requirements for approval of an application. The [coordinator] may deny an  
204 application that is inconsistent with this section.

205 N. Any department, agency, or branch shall cooperate with the [state debt coordinator] in  
206 administering the program.

207 O. The [director of revenue] shall establish an account and shall deposit in the account all  
208 receipts received under the program established by the [state debt coordinator]. Not later than the  
209 [fifteenth] day of each month, the [director] shall deposit amounts received with the [treasurer of  
210 state] for deposit in the [general fund] of the state.

211 P. The [state debt coordinator] shall submit an [annual] report by [January 1] to the  
212 [chairpersons and ranking members of the joint appropriations subcommittee on justice systems  
213 and the legislative services agency], detailing the amount of debt obligations settled under the  
214 program, including the classification of the debt settled and the county of residence of people  
215 who had debt settled under the program or with a debt settlement designee as defined under  
216 [insert citation].

217

218 Section 5. *[Delinquent Court Debt Amnesty Program.]*

219 A. A [debt amnesty program] is established within the [office of the state debt  
220 coordinator] for [insert dates], for any debt obligation eligible under Section 4 of this Act.

221 B. A person who is in jail or prison, or who is under supervision, is not eligible for the  
222 program during the period of incarceration or supervision.

223 C. A person who is paying delinquent court debt through an established payment plan  
224 enumerated in Section (4) (A) of this Act, is also not eligible for the program.

225 D. Under the program the [state debt coordinator] is authorized to forgive an amount  
226 equal to [fifty percent] of any eligible debt obligation due.

227 E. Payment to the [state debt coordinator] under the program shall be provided in a lump  
228 sum.

229 F. The program shall provide that upon written application and payment of an amount  
230 equal to [fifty percent] of eligible debt obligation due to the state, the state shall forgive any  
231 remaining balance of eligible debt obligation due and shall not seek any contempt or civil action,  
232 or criminal prosecution, against the person related to the eligible debt obligation forgiven under  
233 the program. Upon the forgiveness of the unpaid portion of the eligible debt pursuant to this  
234 program, the eligible debt shall be considered paid in full by the state.

235 G. The written application shall contain all case numbers associated with the eligible debt  
236 obligation due, and a general description of such debt.

237 H. Failure to pay the amount agreed upon by the date specified shall bar the person's  
238 participation in the program.

239 I. A person who participates in the program shall relinquish all administrative and judicial  
240 rights to challenge the imposition and the amount of eligible debt obligation owed.

241 J. Upon paying the amount required under subsection (E), the [state debt coordinator]  
242 shall provide the person with a certified document detailing the case numbers paid in full under  
243 the program. Any state department, agency, or branch shall, upon the filing of a certified  
244 document detailing the cases paid in full under the program, indicate in the records of the  
245 department, agency, or branch that the case is in fact paid in full with respect to the eligible debt  
246 obligations paid under the program.

247 K. The [state debt coordinator] shall prepare and make available debt amnesty application  
248 forms which contain requirements for approval of an application. The [state debt coordinator]  
249 may deny an application that is inconsistent with this section.

250 L. In order to promote and market this program, the [director of the state lottery] shall  
251 collaborate in the use of television, print, and radio advertising.

252 M. The [department of revenue] shall cooperate with the [state debt coordinator] in  
253 administering this program and shall cooperate with the [state debt coordinator] in establishing  
254 the [debt settlement program] under this Act.

255 N. The [director of revenue] shall establish an account and shall deposit in the account all  
256 receipts received under the [debt amnesty program]. Not later than the [fifteenth] day of each  
257 month, the [director] shall deposit amounts received with the [treasurer of state] for deposit in the  
258 [general fund] of the state.

259 O. The [state debt coordinator] by [insert date], shall provide a report to the [chairpersons  
260 and ranking members of the senate and house committee on appropriations and to the legislative  
261 services agency] that details the amounts collected under the program, including the  
262 classification of debt collected and the county of residence of people granted amnesty.

263  
264 Section 6. [*Severability.*] [Insert severability clause.]

265  
266 Section 7. [*Repealer.*] [Insert repealer clause.]

267  
268 Section 8. [*Effective Date.*] [Insert effective date.]