



Monterey County

Item No.

Board Report

Board of Supervisors
Chambers
168 W. Alisal St., 1st Floor
Salinas, CA 93901

Legistar File Number: 21-760**October 12, 2021****Introduced:** 8/30/2021**Current Status:** Draft**Version:** 2**Matter Type:** General Agenda Item

- a. Approve and authorize the Treasurer-Tax Collector's Revenue Division Application for Discharge from Accountability for the collection of delinquent court-ordered criminal and traffic fines, fees, penalties, and assessments deemed uncollectible due to age of debt and lack of value where the cost of recovery exceeds the cost of collection efforts, per Government Code Section 25257; and
- b. Authorize the Treasurer-Tax Collector or her designee to take all necessary and appropriate action to discharge the accountability of delinquent court-ordered accounts pursuant to Government Code Section 25259.

RECOMMENDATION:

It is recommended that the Board of Supervisors:

- a. Approve and authorize the Treasurer-Tax Collector's Revenue Division Application for Discharge from Accountability for the collection of delinquent court-ordered criminal and traffic fines, fees, penalties, and assessments deemed uncollectible due to age of debt and lack of value where the cost of recovery exceeds the cost of collection efforts, per Government Code Section 25257; and
- b. Authorize the Treasurer-Tax Collector or her designee to take all necessary and appropriate action to discharge the accountability of delinquent court-ordered accounts pursuant to Government Code Section 25259.

SUMMARY:

In compliance with the County's Memorandum of Understanding (MOU) with the Superior Court of Monterey County, the Treasurer-Tax Collector's Revenue Division (TTCRD) collects delinquent criminal and traffic fines, fees, penalties, and assessments. To support these responsibilities, the TTCRD maintains a large database of accounts for monies owed and actively collects on these accounts using techniques that meet the Judicial Council approved collection best practices. However, not all accounts are collectible and as they age the cost of continued active collection exceeds the value of the original fine. It is at this point an account becomes eligible for discharge from accountability. A discharge from accountability relieves the TTCRD from any further responsibility for collecting or accounting for the debt. It does *not* constitute a release of any person from liability for payment of the amounts discharged.

DISCUSSION:

Pursuant to Government Code Sections 25257-25259.95, discharge from accountability may be performed on infractions, misdemeanors, and felonies once collecting entities determine them uncollectible. The code however is silent regarding a recommended period for discharging court-ordered debt, but the State Judicial Council's Revenue and Collections Unit recommends discharging infraction cases after five years without payment and misdemeanor and felony cases after ten years without payment. Also, Government Code Section 25257(b) authorizes and establishes that any collection program operated by a county may apply to the Board of Supervisors for a discharge from accountability of court-ordered debt if the amount is too small to justify the cost of collection or the likelihood of collection does not warrant the expense involved. The accounts included with this application meet the above discharge from accountability criteria because the amounts owed have been delinquent for more than 10 years without payment and the estimated cost of collection generally exceeds the value of the accounts.

The TTCRD is requesting to discharge 3,361 infraction and misdemeanor traffic accounts with a balance remaining of approximately \$2.8 million and 50,570 misdemeanor and felony criminal accounts of approximately \$16.1 million. These accounts have not had any payment activity for more than ten years, and all reasonable collection efforts on these accounts have been exhausted. The last discharge from accountability occurred in 2015 and subsequently the TTCRD along with State and local Court representatives implemented a mutually agreeable process for the continued discharge from accountability, which has since been codified in the December 2020 MOU. Both agencies have also agreed and recommend that future applicable debt be discharged on an annual basis.

The discharge from accountability relieves the TTCRD from any further responsibility for accounting or collecting discharged debt. It does *not* constitute a release of any person from liability for payment of the amounts discharged. The detailed records of accounts include specifics on each debt discharged: the case number, the nature of the case (infraction, misdemeanor, or felony), the name(s) of the persons liable, the dollar amount of the debt, and the number of years in delinquent status. They are on file with the TTCRD and available for review on the Division's website at <http://www.co.monterey.ca.us/government/departments-i-z/treasurer-tax-collector/discharge-of-accountability> until at least December 15, 2021 and will be subsequently posted by the Superior Court of California - County of Monterey for a period of not less than three weeks. This report and a copy of subject accounts will remain on file with the Clerk of the Board.

OTHER AGENCY INVOLVEMENT:

Monterey County Superior Court staff have agreed to the pending Application for Discharge from Accountability. Pursuant to Government Code Section 29259, within 45 days after the end of the month in which any discharge from accountability is approved, the TTCRD shall report to the Superior Court of Monterey County the discharge from accountability of court-ordered debt. Government Code Section 25259.9(a) provides that upon making an order of discharge, the presiding judge shall direct the clerk of the court to enter record of the discharge in the court case file for each debt and to

Legistar File Number: 21-760

post a copy of the order of discharge on the court's internet website for a period of not less than three weeks. County Counsel concurs with the recommended action.

FINANCING:

Recommended actions include discharge from accountability of 53,931 accounts with an approximate balance of \$18.9 million. Approval of this action has no financial impact to the general fund as these accounts are not considered "receivables" in the County's financial statements and therefore do not represent revenue loss. Approval of the application will allow the TTCRD to remove these accounts from active collection resulting in system, operational, and financial efficiencies allowing staff to focus time and efforts on accounts that are collectible.

DocuSigned by:

Jake Stroud

9/27/2021 | 11:50 AM PDT

Prepared by: Jake Stroud, Deputy Treasurer-Tax Collector, x5828

DocuSigned by:

Mary A. Zeeb

9/27/2021 | 11:49 AM PDT

Approved by: Mary A. Zeeb, Treasurer-Tax Collector, x5474

Attachments:

Attachment A - Application for Discharge from Accountability

Attachment B - Discharge from Accountability Information Sheet

cc: Monterey County Superior Court

SUPERIOR COURT OF CALIFORNIA, COUNTY OF MONTEREY**Application for Discharge from Accountability****Government Code section 25259.7**

The collections program respectfully applies to the presiding judge of the court for a discharge from accountability for the court-ordered debt or bail listed below, that it would otherwise be responsible for collecting. The request is based on one or both of the following: 1) the amount is too small to justify the cost of collection; and 2) the likelihood of collection does not warrant the expense involved.

A discharge from accountability does not constitute a release of any person from liability for payment of any amount owed.

Total amount requested to be discharged from accountability: \$18,905,841.22.

The names of the persons liable and the amount owed by each are on file with the Monterey County Clerk of the Board of Supervisors.

VERIFICATION**(Government Code Section 25259.8)**

I, Mary Zeeb, apply to the presiding judge, for a discharge from accountability for the collection thereof and attest that the facts stated in the application are true and correct to the best of my knowledge.

Mary A. Zeeb
Treasurer-Tax Collector
County of Monterey

Date

DISCHARGE FROM ACCOUNTABILITY**(Government Code Section 25259.9)**

The presiding judge of the Superior Court of California, County of Monterey, having read and considered the information provided, determines that the request for discharge is justified and relieves the applicant from any further responsibility for collecting the discharged debt. This discharge does not constitute a release of any person from liability for payment of any amount owed.

The clerk of the court is directed to enter record of the discharge in the court case file for each debt and to post a copy of the order of discharge on the court's Internet Web site for a period of not less than three weeks.

Signature: _____ **Date:** _____

Within 45 days after the end of the month in which this discharge is approved, the superior court shall report to the county the discharge from accountability.

DISCHARGE FROM ACCOUNTABILITY INFORMATION SHEET

I. PURPOSE

Government Code sections 25257-25259.95 authorize and establish the eligibility criteria for discharging court-ordered debt. A discharge from accountability may be completed by the responsible collecting entity for the following case types: infractions, misdemeanors, and felonies.

II. AUTHORITY

The collecting entity, either the court or the county, may discharge debt pursuant to Government Code sections 25257 and 25259.7.

III. REPORTING

Pursuant to Government Code section 25259 (County) and 25259.9 (Court), within 45 days after discharge, the court and county should report to each other all court-ordered debt discharged from accountability.

The report should, at minimum, include the following for each debt discharged:

1. Case number;
2. Case type (infraction, misdemeanor, or felony);
3. Amount discharged; and
4. Number of years since the debt became delinquent or date of last payment.

IV. DISCHARGE TIME PERIOD

Government Code sections 25257 – 25259.95 do not provide a recommended time period for discharging court-ordered debt. The Judicial Council's Revenue and Collections Unit recommends discharging infraction cases at least 5 years from the date of last payment or the date the account became delinquent; and at least 10 years for misdemeanor and felony cases.

Revenue and Collections also recommends discharging debt on an annual basis.

V. APPLICATION PROCESS

Government Code sections 25258 and 25259.8 state that an application must be submitted by the collecting entity, either the court or county, to the Board of Supervisors or Presiding Judge / designee. The application must include the amount owing, the names of the persons liable and the amount owed, the estimated cost of collections that the likelihood of collecting or a specific reference to the official records establishing that the amount owed has been compromised or adjusted. The application shall include any other facts that warrant the discharge and verification by the applicant attesting to the facts.

VI. ELIGIBILITY

1. Discharge from accountability can be ordered for outstanding balances remaining on infraction, misdemeanor, and felony cases when one or more of the following applies:
 - a) The balance is too small to justify the cost of collection; or
 - b) The likelihood of collection does not warrant the expense involved.For example: (1) All the required reasonable collection efforts, including Penal Code section 1463.007, have been performed; (2) The debtor is deceased, has no assets, and a copy of the death certificate has been submitted; (3) At least 5 years

DISCHARGE FROM ACCOUNTABILITY INFORMATION SHEET

for infractions or 10 years for misdemeanors and felonies has elapsed from the date the debt became delinquent.

VII. RELEASE OF LIABILITY

Pursuant to Government Code sections 25259 and 25259.9 (a), discharge from accountability does not release any person from liability for payment of any amount discharged.

VIII. RECORD RETENTION

The courts should not delete or purge any cases where there is an outstanding balance and must adhere to the record retention policy as outlined in Section 6.1 in the *Record Retention, Judicial Council's Trial Court Financial Policies and Procedures*, located at <http://www.courts.ca.gov/documents/fin-policies-and-procedures-Manual.pdf>
Please see page 309 of 423.

Counties should consult with their courts to determine if any collection records should be retained according to Section 6.1 in the *Record Retention, Judicial Council's Trial Court Financial Policies and Procedures*, located at <http://www.courts.ca.gov/documents/fin-policies-and-procedures-Manual.pdf>
Please see page 309 of 423.

IX. CASE ENTRY

Once an order of discharge has been made, the presiding judge of the Superior Court, or authorized judicial officer, shall direct the clerk of the court to enter a record of the discharge in the court case file for each debt.

X. INTERNET POSTING

Once an order of discharge has been made, the presiding judge of the Superior Court, or authorized judicial officer, shall direct the clerk of the court to post a copy of the order of discharge on the court's Internet web site for at least three weeks.