

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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SENATE BILL 1587

Short Title: Setoff Debt Collection Changes.

(Public)

Sponsors: Senator Barker.

Referred to: Finance.

June 6, 1990

A BILL TO BE ENTITLED

AN ACT TO IMPROVE THE PROCEDURE FOR COLLECTING DEBTS OWED THE STATE BY SETTING OFF THE DEBTS AGAINST TAX REFUNDS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105A-3 reads as rewritten:

"§ 105A-3. Remedy additional; mandatory usage; obtaining identifying information.

(a) The collection remedy under this Article is in addition to and not in substitution for any other remedy available by law.

(b) All claimant agencies shall submit, for collection under the procedure established by this Article, all debts which they are owed, except in cases where said agencies are advised by the Attorney General not to submit a claim because the validity of the debt is legitimately in dispute, because an alternative means of collection is pending and believed to be adequate, or because such a collection attempt would result in a loss of federal funds.

(c) All claimant agencies shall whenever possible obtain the full name, social security number, address, and any other identifying information required by rules promulgated by the Department pursuant to the authority of G.S. 105A-16 from any person for whom the agencies provide any service or transact any business and who the claimant agencies can foresee may become a debtor under the terms of this Article."

Sec. 2. G.S. 105A-6 reads as rewritten:

"§ 105A-6. Procedure for setoff.

(a) A claimant agency seeking to attempt collection of a debt through setoff shall notify in writing the Department in writing and supply (i) information necessary to

1 identify the debtor whose refund is sought to be set off ~~off~~ and (ii) the date, if any, that
2 the debt is expected to expire. Notification to the Department and the furnishing of
3 identifying information must occur on or before a date specified by the Department in
4 the first year preceding the calendar year during which the refund would be paid. The
5 notice is effective to initiate setoff against refunds that would be made in calendar years
6 following the year in which the notice was first made until the date specified in the
7 notice that the debt is expected to expire. The agency shall notify the Department in
8 writing when a debt has been paid or is no longer owed the agency. ~~Additionally, subject~~
9 ~~to the notification deadline specified above, the notification shall be effective only to initiate~~
10 ~~setoff for claims against refunds that would be made in the calendar year subsequent to the year~~
11 ~~in which notification is made to the Department.~~

12 (b) The Department, upon receipt of notification, shall determine each year
13 whether the debtor to the claimant agency is entitled to a refund of at least fifty dollars
14 (\$50.00) from the Department. Upon determination by the Department that a debtor
15 specified by a claimant agency qualifies for such a refund, the Department shall notify
16 in writing the claimant agency that a refund is pending, specify its sum, and indicate the
17 debtor's address as listed on the tax return.

18 (c) Unless stayed by court order, the Department shall, upon certification as
19 hereinafter provided in this Article, set off the certified debt against the refund to which
20 the debtor would otherwise be entitled."

21 Sec. 3. G.S. 105A-13 reads as rewritten:

22 "**§ 105A-13. Disposition of proceeds collected; collection assistance fees.**

23 (a) Upon effecting final setoffs, the Department shall periodically write checks to
24 the respective claimant agencies for the net proceeds collected on their behalf.

25 (b) ~~From the gross proceeds collected by the Department of Revenue through~~
26 ~~setoff, the Department shall retain fifteen percent (15%), which amount shall be charged~~
27 ~~to the respective claimant agency as a collection assistance fee. The Department shall~~
28 ~~devote the funds so retained to the following uses and purposes:~~

29 (1) ~~For the purpose of effectuating the provisions of the income tax refund~~
30 ~~Setoff Debt Collection Act, the sum of one hundred fifteen thousand~~
31 ~~dollars (\$115,000) in the fiscal year 1979-80, and the sum of one~~
32 ~~hundred sixty thousand dollars (\$160,000) in the fiscal year 1980-81;~~
33 ~~and~~

34 (2) ~~For the purpose of preparing, printing, publishing and mailing to~~
35 ~~taxpayers revised income withholding tax tables required to be revised~~
36 ~~as a result of the Revenue Act of 1979, the sum of one hundred one~~
37 ~~thousand dollars (\$101,000) in the fiscal year 1979-80, and the sum of~~
38 ~~one hundred eight thousand dollars (\$108,000) in the fiscal year 1980-~~
39 ~~81. Any balance remaining unexpended from the total collection~~
40 ~~assistance fees at the close of each fiscal year shall be deposited into~~
41 ~~the State Treasury for credit to the General Fund. In order to fund the~~
42 ~~cost of the setoff program and of printing, publishing and mailing said~~
43 ~~tax tables, before receipt of any collection assistance fees, the~~
44 ~~Department of Revenue is authorized to borrow from the Contingency~~

1 and Emergency Fund up to two hundred sixteen thousand dollars
2 (\$216,000) in fiscal year 1979-80, and up to two hundred sixty eight
3 thousand dollars (\$268,000) in fiscal year 1980-81, to be repaid from
4 collection assistance fees as they are received.

5 ~~For years after fiscal year 1980-81, the~~ Each year the Department shall calculate its
6 actual cost of collection as a percentage of the immediately preceding year's collections
7 under the Setoff Debt Collection Act, ~~and that percentage shall be its collection assistance~~
8 ~~fee for the then-current fiscal year.~~ Act and shall retain that percentage from the gross
9 proceeds collected by the Department through setoff for the current fiscal year."

10 Sec. 4. The Administrative Office of the Courts shall submit to the
11 Department of Revenue on or before October 1, 1991, a list of all outstanding debts
12 owed the State for services rendered for representation of indigent persons, as identified
13 in judgments entered pursuant to G.S. 7A-455(b) that have not been satisfied. The list
14 shall specify the name, address, and social security number of the debtor, the amount of
15 the debt, and the date the judgment will expire. This list will constitute notice under
16 G.S. 105A-6 of these debts.

17 Sec. 5. In order to pay for the computer programming, data entry, and related
18 expenses needed to implement the provisions of this act, the Department of Revenue
19 shall draw from individual income tax net collections received under Division II of
20 Article 4 of Chapter 105 of the General Statutes an amount not to exceed eighty-one
21 thousand six hundred dollars (\$81,600) for the 1990-91 fiscal year.

22 Sec. 6. Sections 1 through 3 of this act are effective for taxable years
23 beginning on or after January 1, 1991, and apply to debts submitted pursuant to G.S.
24 105A-6 on or after January 1, 1991. The remainder of this act shall become effective
25 July 1, 1990.