

AN ACT in relation to State collection of debts.

Be it enacted by the People of the State of Illinois,
represented in the General Assembly:

Section 5. The State Finance Act is amended by adding
Section 5.595 as follows:

(30 ILCS 105/5.595 new)

Sec. 5.595. The Debt Collection Fund.

Section 10. The Illinois State Collection Act of 1986 is
amended by changing Sections 4, 5, 6, 7, and 8 and adding
Section 10 as follows:

(30 ILCS 210/4) (from Ch. 15, par. 154)

Sec. 4. (a) The Comptroller shall provide by rule
appropriate procedures for State agencies to follow in
establishing and recording within the State accounting system
records of amounts owed to the State of Illinois. The rules
of the Comptroller shall include, but are not limited to:

(1) the manner by which State agencies shall recognize
debts;

(2) systems to age accounts receivable of State
agencies;

(3) standards by which State agencies' claims may be
entered and removed from the Comptroller's Offset System
authorized by Section 10.05 of the State Comptroller Act;

(4) accounting procedures for estimating the amount of
uncollectible receivables of State agencies; and

(5) accounting procedures for writing off bad debts and
uncollectible claims prior to referring them to the
Department of Revenue Collections Bureau for collection.

(b) State agencies shall report to the Comptroller

information concerning their accounts receivable and uncollectible claims in accordance with the rules of the Comptroller, which may provide for summary reporting. The Department of Revenue is exempt from the provisions of this subsection with regard to debts the confidentiality of which the Department of Revenue is required by law to maintain.

(c) The rules of the Comptroller authorized by this Section may specify varying procedures and forms of reporting dependent upon the nature and amount of the account receivable or uncollectible claim, the age of the debt, the probability of collection and such other factors that will increase the net benefit to the State of the collection effort.

(d) The Comptroller shall report annually by March 14, to the Governor and the General Assembly, the amount of all delinquent debt owed to each State agency as of December 31 of the previous calendar year.

(Source: P.A. 86-515.)

(30 ILCS 210/5) (from Ch. 15, par. 155)

Sec. 5. Rules; payment plans; offsets.

(a) Until July 1, 2004 for the Department of Public Aid and July 1, 2005 for Universities and all other State agencies, State agencies shall adopt rules establishing formal due dates for amounts owing to the State and for the referral of seriously past due accounts to private collection agencies, unless otherwise expressly provided by law or rule, except that on and after July 1, 2005, the Department of Employment Security may continue to refer to private collection agencies past due amounts that are exempt from subsection (g). Such procedures shall be established in accord with sound business practices.

(b) Until July 1, 2004 for the Department of Public Aid and July 1, 2005 for Universities and all other State

agencies, agencies may enter deferred payment plans for debtors of the agency and documentation of this fact retained by the agency, where the deferred payment plan is likely to increase the net amount collected by the State, except that, on and after July 1, 2005, the Department of Employment Security may continue to enter deferred payment plans for debts that are exempt from subsection (g).

(c) Until July 1, 2004 for the Department of Public Aid and July 1, 2005 for Universities and all other State agencies, State agencies may use the Comptroller's Offset System provided in Section 10.05 of the State Comptroller Act for the collection of debts owed to the agency, except that, on and after July 1, 2005, the Department of Employment Security may continue to use the Comptroller's offset system to collect amounts that are exempt from subsection (g). All debts that exceed \$1,000 and are more than 90 days past due shall be placed in the Comptroller's Offset System, unless the State agency shall have entered into a deferred payment plan or demonstrates to the Comptroller's satisfaction that referral for offset is not cost effective.

(d) State agencies shall develop internal procedures whereby agency initiated payments to its debtors may be offset without referral to the Comptroller's Offset System.

(e) State agencies or the Comptroller may remove claims from the Comptroller's Offset System, where such claims have been inactive for more than one year.

(f) State agencies may use the Comptroller's Offset System to determine if any State agency is attempting to collect debt from a contractor, bidder, or other proposed contracting party.

(g) Beginning July 1, 2004 for the Departments of Public Aid and Employment Security and July 1, 2005 for Universities and other State agencies, State agencies shall refer to the Department of Revenue Debt Collection Bureau (the Bureau) all

debt to the State, provided that the debt satisfies the requirements for referral of delinquent debt as established by rule by the Department of Revenue.

(h) The Department of Public Aid shall be exempt from the requirements of this Section with regard to child support debts, the collection of which is governed by the requirements of Title IV, Part D of the federal Social Security Act. The Department of Public Aid may refer child support debts to the Bureau, provided that the debt satisfies the requirements for referral of delinquent debt as established by rule by the Department of Revenue. The Bureau shall use all legal means available to collect child support debt, including those authorizing the Department of Revenue to collect debt and those authorizing the Department of Public Aid to collect debt. All such referred debt shall remain an obligation under the Department of Public Aid's Child Support Enforcement Program subject to the requirements of Title IV, Part D of the federal Social Security Act, including the continued use of federally mandated enforcement remedies and techniques by the Department of Public Aid.

(h-1) The Department of Employment Security is exempt from subsection (g) with regard to debts to any federal account, including but not limited to the Unemployment Trust Fund, and penalties and interest assessed under the Unemployment Insurance Act. The Department of Employment Security may refer those debts to the Bureau, provided the debt satisfies the requirements for referral of delinquent debt as established by rule by the Department of Revenue. The Bureau shall use all legal means available to collect the debts, including those authorizing the Department of Revenue to collect debt and those authorizing the Department of Employment Security to collect debt. All referred debt shall remain an obligation to the account to which it is owed.

(i) All debt referred to the Bureau for collection shall

remain the property of the referring agency. The Bureau shall collect debt on behalf of the referring agency using all legal means available, including those authorizing the Department of Revenue to collect debt and those authorizing the referring agency to collect debt.

(j) No debt secured by an interest in real property granted by the debtor in exchange for the creation of the debt shall be referred to the Bureau. The Bureau shall have no obligation to collect debts secured by an interest in real property.

(k) Beginning July 1, 2003, each agency shall collect and provide the Bureau information regarding the nature and details of its debt in such form and manner as the Department of Revenue shall require.

(l) For all debt accruing after July 1, 2003, each agency shall collect and transmit such debtor identification information as the Department of Revenue shall require.

(Source: P.A. 92-404, eff. 7-1-02.)

(30 ILCS 210/6) (from Ch. 15, par. 156)

Sec. 6. The Comptroller with the approval of the Governor may provide by rule and regulation for the creation of a special fund or funds for the deposit of designated receipts by designated agencies to be known as the Accounts Receivable Fund or Funds. Deposits shall be segregated by the creditor agency. No deposit shall be made unless the collection is of an account receivable more than 120 days past due.

Seventy-five percent of the amounts deposited each quarter into such a special fund shall be transferred to the General Revenue Fund or such other fund that would have originally received the receipts. The remaining amounts may be used by the creditor agency for collecting overdue accounts pursuant to appropriation by the General Assembly.

An agency, with the approval of the Comptroller, may deposit all receipts into the General Revenue Fund or other such fund that would have originally received the receipts. Twenty-five percent of such deposits made each quarter for accounts receivable more than 120 days past due shall be transferred to the Accounts Receivable Fund or Funds. The transferred amounts may be used by the creditor agency for collecting overdue accounts pursuant to appropriation by the General Assembly.

In determining the types of receipts to be deposited pursuant to this Section the Comptroller and the Governor shall consider the following factors:

(1) The percentage of such receipts estimated to be uncollectible by the creditor agency;

(2) The percentage of such receipts certified as uncollectible by the Attorney General;

(3) The potential increase in future receipts, as estimated by the creditor agency, if 25% of amounts collected are retained for collection efforts;

(4) The impact of the retention of 25% of receipts on the relevant fund balances; and

(5) Such other factors as the Comptroller and the Governor deem relevant.

This Section shall not apply to the Department of Revenue nor the Department of Employment Security.

This Section is repealed July 1, 2004. On that date any moneys in the Accounts Receivable Funds created under this Section shall be transferred to the General Revenue Fund.

(Source: P.A. 86-194.)

(30 ILCS 210/7) (from Ch. 15, par. 157)

Sec. 7. Upon agreement of the Attorney General, the Bureau agencies may contract for legal assistance in collecting past due accounts. Any contract entered into under

this Section before the effective date of this amendatory Act of the 93rd General Assembly shall remain valid but may not be renewed. In-addition,-agencies-may-contract-for-collection assistance-where-such-assistance-is-determined-by-the--agency to--be--in-the-best-economic-interest-of-the-State.--Agencies may-utilize-monies-in-the-Accounts-Receivable-Fund-to-pay-for such-legal-and-collection-assistance;-provided,-however,-that no-more-than-20%-of-collections-on-an--account--may--be--paid from--the--Accounts-Receivable-Fund-as-compensation-for-legal and-collection-assistance-on-that--account,---If--the--amount available--for--expenditure-from-the-Accounts-Receivable-Fund is-insufficient--to--pay--the--cost--of--such--services,-the difference,-up--to-40%-of-the-total-collections-per-account, may-be-paid-from-other-monies-which-may-be-available--to--the Agency-

(Source: P.A. 85-814.)

(30 ILCS 210/8) (from Ch. 15, par. 158)

Sec. 8. Debt Collection Board. There is created a Debt Collection Board consisting of the Director of Central Management Services as chairman, the State Comptroller, and the Attorney General, or their respective designees. The Board shall establish a centralized collections service to undertake further collection efforts on delinquent accounts or claims of the State which have not been collected through the reasonable efforts of the respective State agencies. The Board shall promulgate rules and regulations pursuant to the Illinois Administrative Procedure Act with regard to the establishment of timetables and the assumption of responsibility for agency accounts receivable that have not been collected by the agency, are not subject to a current repayment plan, or have not been certified as uncollectible as of the date specified by the Board. The Board shall make a final evaluation of those accounts and either (i) direct or

conduct further collection activities when further collection efforts are in the best economic interest of the State or (ii) in accordance with Section 2 of the Uncollected State Claims Act, certify the receivable as uncollectible or submit the account to the Attorney General for that certification.

The Board is empowered to adopt rules and regulations subject to the provisions of the Illinois Administrative Procedure Act.

The Board is empowered to enter into one or more contracts with outside vendors with demonstrated capabilities in the area of account collection. The contracts shall be let on the basis of competitive proposals secured from responsible proposers. The Board may require that vendors be prequalified. All contracts shall provide for a contingent fee based on the age, nature, amount and type of delinquent account. The Board may adopt a reasonable classification schedule for the various receivables. The contractor shall remit the amount collected, net of the contingent fee, to the respective State agency which shall deposit the net amount received into the fund that would have received the receipt had it been collected by the State agency. No portion of the collections shall be deposited into an Accounts Receivable Fund established under Section 6 of this Act. The Board shall act only upon the unanimous vote of its members.

The authority granted the Debt Collection Board under this Section shall be limited to the administration of debt not otherwise required by the provisions of this amendatory Act of the 93rd General Assembly to be referred to the Department of Revenue's Debt Collection Bureau. Upon referral to and acceptance of any debt by the Bureau, the provisions of this Section shall be rendered null and void as to that debt and the Board shall promptly deliver its entire file and all records relating to such debt to the Bureau, together with a status report describing all action taken by the Board

or any entity on its behalf to collect the debt, and including an accounting of all payments received.

(Source: P.A. 89-511, eff. 1-1-97.)

(30 ILCS 210/10 new)

Sec. 10. Department of Revenue Debt Collection Bureau to assume collection duties.

(a) The Department of Revenue's Debt Collection Bureau shall serve as the primary debt collecting entity for the State and in that role shall collect debts on behalf of agencies of the State. All debts owed the State of Illinois shall be referred to the Bureau, subject to such limitations as the Department of Revenue shall by rule establish. The Bureau shall utilize the Comptroller's offset system and private collection agencies, as well as its own collections personnel. The Bureau shall collect debt using all legal authority available to the Department of Revenue to collect debt and all legal authority available to the referring agency.

(b) The Bureau shall have the sole authority to let contracts with persons specializing in debt collection for the collection of debt referred to and accepted by the Bureau. Any contract with the debt collector shall specify that the collector's fee shall be on a contingency basis and that the debt collector shall not be entitled to collect a contingency fee for any debt collected through the efforts of any State offset system.

(c) The Department of Revenue shall adopt rules for the certification of debt from referring agencies and shall adopt rules for the certification of collection specialists to be employed by the Bureau.

(d) The Department of Revenue shall adopt rules for determining when a debt referred by an agency shall be deemed by the Bureau to be uncollectible.

(e) Once an agency's debt is deemed by the Bureau to be uncollectible, the Bureau shall return the debt to the referring agency which shall then write the debt off as uncollectible or return the debt to the Bureau for additional collection efforts. The Bureau shall refuse to accept debt that has been deemed uncollectible absent factual assertions from the referring agency that due to circumstances not known at the time the debt was deemed uncollectible that the debt is worthy of additional collection efforts.

(f) For each debt referred, the State agency shall retain all documents and records relating to or supporting the debt. In the event a debtor shall raise a reasonable doubt as to the validity of the debt, the Bureau may in its discretion refer the debt back to the referring agency for further review and recommendation.

(g) The Department of Public Aid shall be exempt from the requirements of this Section with regard to child support debts, the collection of which is governed by the requirements of Title IV, Part D of the federal Social Security Act. The Department of Public Aid may refer child support debts to the Bureau, provided that the debt satisfies the requirements for referral of delinquent debt as established by rule by the Department of Revenue. The Bureau shall use all legal means available to collect child support debt, including those authorizing the Department of Revenue to collect debt and those authorizing the Department of Public Aid to collect debt. All such referred debt shall remain an obligation under the Department of Public Aid's Child Support Enforcement Program subject to the requirements of Title IV, Part D of the federal Social Security Act, including the continued use of federally mandated enforcement remedies and techniques by the Department of Public Aid.

(g-1) The Department of Employment Security is exempt from subsection (a) with regard to debts to any federal

account, including but not limited to the Unemployment Trust Fund, and penalties and interest assessed under the Unemployment Insurance Act. The Department of Employment Security may refer those debts to the Bureau, provided the debt satisfies the requirements for referral of delinquent debt as established by rule by the Department of Revenue. The Bureau shall use all legal means available to collect the debts, including those authorizing the Department of Revenue to collect debt and those authorizing the Department of Employment Security to collect debt. All referred debt shall remain an obligation to the account to which it is owed.

(h) The Debt Collection Fund is created as a special fund in the State treasury. Debt collection contractors under this Act shall receive a contingency fee as provided by the terms of their contracts with the Department of Revenue. Thereafter, 20% of all amounts collected by the Bureau, excluding amounts collected on behalf of the Departments of Public Aid and Revenue, shall be deposited into the Debt Collection Fund. All remaining amounts collected shall be deposited into the General Revenue Fund unless the funds are owed to any State fund or funds other than the General Revenue Fund. Moneys in the Debt Collection Fund shall be appropriated only for the administrative costs of the Bureau. On the last day of each fiscal year, unappropriated moneys and moneys otherwise deemed unneeded for the next fiscal year remaining in the Debt Collection Fund may be transferred into the General Revenue Fund at the Governor's reasonable discretion. The provisions of this subsection do not apply to debt that is exempt from subsection (a) pursuant to subsection (g-1) or child support debt referred to the Bureau by the Department of Public Aid pursuant to this amendatory Act of the 93rd General Assembly. Collections arising from referrals from the Department of Public Aid shall be deposited into such fund or funds as the Department of Public

Aid shall direct, in accordance with the requirements of Title IV, Part D of the federal Social Security Act, applicable provisions of State law, and the rules of the Department of Public Aid. Collections arising from referrals from the Department of Employment Security shall be deposited into the fund or funds that the Department of Employment Security shall direct, in accordance with the requirements of Section 3304(a)(3) of the federal Unemployment Tax Act, Section 303(a)(4) of the federal Social Security Act, and the Unemployment Insurance Act.

(i) The Attorney General and the State Comptroller may assist in the debt collection efforts of the Bureau, as requested by the Department of Revenue.

(j) The Director of Revenue shall report annually to the General Assembly and State Comptroller upon the debt collection efforts of the Bureau. Each report shall include an analysis of the overdue debts owed to the State.

(k) The Department of Revenue shall adopt rules and procedures for the administration of this amendatory Act of the 93rd General Assembly. The rules shall be adopted under the Department of Revenue's emergency rulemaking authority within 90 days following the effective date of this amendatory Act of the 93rd General Assembly due to the budget crisis threatening the public interest.

(l) The Department of Revenue's Debt Collection Bureau's obligations under this Section 10 shall be subject to appropriation by the General Assembly.

Section 99. Effective date. This Act shall take effect upon becoming law.