



93RD GENERAL ASSEMBLY

State of Illinois

2003 and 2004

Introduced 02/05/04, by Lou Lang

SYNOPSIS AS INTRODUCED:

30 ILCS 210/5
30 ILCS 210/10

from Ch. 15, par. 155

Amends the Illinois State Collection Act of 1986. Exempts the Department of Human Services from the requirement of referring debts for collection to the Department of Revenue Debt Collection Bureau. Effective immediately.

LRB093 18683 RCE 44410 b

FISCAL NOTE ACT
MAY APPLY

1 AN ACT concerning collection of debts.

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

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

6 (30 ILCS 210/5) (from Ch. 15, par. 155)

7 Sec. 5. Rules; payment plans; offsets.

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

19 (b) Until July 1, 2004 for the Department of Public Aid and
20 July 1, 2005 for Universities and all other State agencies,
21 agencies may enter deferred payment plans for debtors of the
22 agency and documentation of this fact retained by the agency,
23 where the deferred payment plan is likely to increase the net
24 amount collected by the State, except that, on and after July
25 1, 2005, the Department of Employment Security may continue to
26 enter deferred payment plans for debts that are exempt from
27 subsection (g).

28 (c) Until July 1, 2004 for the Department of Public Aid and
29 July 1, 2005 for Universities and all other State agencies,
30 State agencies may use the Comptroller's Offset System provided
31 in Section 10.05 of the State Comptroller Act for the
32 collection of debts owed to the agency, except that, on and

1 after July 1, 2005, the Department of Employment Security and
2 the Department of Human Services may continue to use the
3 Comptroller's offset system to collect amounts that are exempt
4 from subsection (g). All debts that exceed \$1,000 and are more
5 than 90 days past due shall be placed in the Comptroller's
6 Offset System, unless the State agency shall have entered into
7 a deferred payment plan or demonstrates to the Comptroller's
8 satisfaction that referral for offset is not cost effective.

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

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

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

18 (g) Beginning July 1, 2004 for the Departments of Public
19 Aid and Employment Security and July 1, 2005 for Universities
20 and other State agencies, State agencies shall refer to the
21 Department of Revenue Debt Collection Bureau (the Bureau) all
22 debt to the State, provided that the debt satisfies the
23 requirements for referral of delinquent debt as established by
24 rule by the Department of Revenue.

25 (h) The Department of Public Aid shall be exempt from the
26 requirements of this Section with regard to child support
27 debts, the collection of which is governed by the requirements
28 of Title IV, Part D of the federal Social Security Act. The
29 Department of Public Aid may refer child support debts to the
30 Bureau, provided that the debt satisfies the requirements for
31 referral of delinquent debt as established by rule by the
32 Department of Revenue. The Bureau shall use all legal means
33 available to collect child support debt, including those
34 authorizing the Department of Revenue to collect debt and those
35 authorizing the Department of Public Aid to collect debt. All
36 such referred debt shall remain an obligation under the

1 Department of Public Aid's Child Support Enforcement Program
2 subject to the requirements of Title IV, Part D of the federal
3 Social Security Act, including the continued use of federally
4 mandated enforcement remedies and techniques by the Department
5 of Public Aid.

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

19 (h-2) The Department of Human Services is exempt from
20 subsection (g) with regard to all debts. The Department of
21 Human Services may refer those debts to the Bureau, provided
22 the debt satisfies the requirements for referral of delinquent
23 debt as established by rule by the Department of Revenue. The
24 Bureau shall use all legal means available to collect the
25 debts, including those authorizing the Department of Revenue to
26 collect debt and those authorizing the Department of Human
27 Services to collect debt. All referred debt shall remain an
28 obligation to the account to which it is owed.

29 (i) All debt referred to the Bureau for collection shall
30 remain the property of the referring agency. The Bureau shall
31 collect debt on behalf of the referring agency using all legal
32 means available, including those authorizing the Department of
33 Revenue to collect debt and those authorizing the referring
34 agency to collect debt.

35 (j) No debt secured by an interest in real property granted
36 by the debtor in exchange for the creation of the debt shall be

1 referred to the Bureau. The Bureau shall have no obligation to
2 collect debts secured by an interest in real property.

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

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

10 (Source: P.A. 92-404, eff. 7-1-02; 93-570, eff. 8-20-03.)

11 (30 ILCS 210/10)

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

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

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

33 (c) The Department of Revenue shall adopt rules for the
34 certification of debt from referring agencies and shall adopt
35 rules for the certification of collection specialists to be

1 employed by the Bureau.

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

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

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

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

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

14 (g-2) The Department of Human Services is exempt from
15 subsection (a) with regard to all debts. The Department of
16 Human Services may refer those debts to the Bureau, provided
17 the debt satisfies the requirements for referral of delinquent
18 debt as established by rule by the Department of Revenue. The
19 Bureau shall use all legal means available to collect the
20 debts, including those authorizing the Department of Revenue to
21 collect debt and those authorizing the Department of Human
22 Services to collect debt. All referred debt shall remain an
23 obligation to the account to which it is owed.

24 (h) The Debt Collection Fund is created as a special fund
25 in the State treasury. Debt collection contractors under this
26 Act shall receive a contingency fee as provided by the terms of
27 their contracts with the Department of Revenue. Thereafter, 20%
28 of all amounts collected by the Bureau, excluding amounts
29 collected on behalf of the Departments of Public Aid and
30 Revenue, shall be deposited into the Debt Collection Fund. All
31 remaining amounts collected shall be deposited into the General
32 Revenue Fund unless the funds are owed to any State fund or
33 funds other than the General Revenue Fund. Moneys in the Debt
34 Collection Fund shall be appropriated only for the
35 administrative costs of the Bureau. On the last day of each
36 fiscal year, unappropriated moneys and moneys otherwise deemed

1 unneeded for the next fiscal year remaining in the Debt
2 Collection Fund may be transferred into the General Revenue
3 Fund at the Governor's reasonable discretion. The provisions of
4 this subsection do not apply to debt that is exempt from
5 subsection (a) pursuant to subsection (g-1) or child support
6 debt referred to the Bureau by the Department of Public Aid
7 pursuant to this amendatory Act of the 93rd General Assembly.
8 Collections arising from referrals from the Department of
9 Public Aid shall be deposited into such fund or funds as the
10 Department of Public Aid shall direct, in accordance with the
11 requirements of Title IV, Part D of the federal Social Security
12 Act, applicable provisions of State law, and the rules of the
13 Department of Public Aid. Collections arising from referrals
14 from the Department of Employment Security shall be deposited
15 into the fund or funds that the Department of Employment
16 Security shall direct, in accordance with the requirements of
17 Section 3304(a)(3) of the federal Unemployment Tax Act, Section
18 303(a)(4) of the federal Social Security Act, and the
19 Unemployment Insurance Act.

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

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

27 (k) The Department of Revenue shall adopt rules and
28 procedures for the administration of this amendatory Act of the
29 93rd General Assembly. The rules shall be adopted under the
30 Department of Revenue's emergency rulemaking authority within
31 90 days following the effective date of this amendatory Act of
32 the 93rd General Assembly due to the budget crisis threatening
33 the public interest.

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

1 (Source: P.A. 93-570, eff. 8-20-03.)

2 Section 99. Effective date. This Act takes effect upon
3 becoming law.