

SB2289



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

SB2289

Introduced 2/20/2009, by Sen. Jeffrey M. Schoenberg

SYNOPSIS AS INTRODUCED:

30 ILCS 210/10
30 ILCS 210/8 rep.
30 ILCS 500/50-11
30 ILCS 500/50-60

Amends the Illinois State Collection Act of 1986. Eliminates the Debt Collection Board. Provides that the write off of uncollectible debt must be in accordance with the Uncollected State Claims Act. Provides that the 20% deposit into the Debt Collection Fund of amounts collected by the Bureau does not apply to accounts referred to the Bureau by the General Assembly, the Supreme Court and other courts of Illinois, or executive branch constitutional officers. Amends the Illinois Procurement Code to remove references to the Debt Collection Board.

LRB096 08765 JAM 18897 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning finance.

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 Section 10 as follows:

6 (30 ILCS 210/10)

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

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

20 (b) The Bureau shall have the sole authority to let
21 contracts with persons specializing in debt collection for the
22 collection of debt referred to and accepted by the Bureau. Any
23 contract with the debt collector shall specify that the

1 collector's fee shall be on a contingency basis and that the
2 debt collector shall not be entitled to collect a contingency
3 fee for any debt collected through the efforts of any State
4 offset system.

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

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

12 (e) Once an agency's debt is deemed by the Bureau to be
13 uncollectible, the Bureau shall return the debt to the
14 referring agency which shall then write the debt off as
15 uncollectible in accordance with the requirements of the
16 Uncollected State Claims Act or return the debt to the Bureau
17 for additional collection efforts. The Bureau shall refuse to
18 accept debt that has been deemed uncollectible absent factual
19 assertions from the referring agency that due to circumstances
20 not known at the time the debt was deemed uncollectible that
21 the debt is worthy of additional collection efforts.

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

1 recommendation.

2 (g) The Department of Healthcare and Family Services shall
3 be exempt from the requirements of this Section with regard to
4 child support debts, the collection of which is governed by the
5 requirements of Title IV, Part D of the federal Social Security
6 Act. The Department of Healthcare and Family Services may refer
7 child support debts to the Bureau, provided that the debt
8 satisfies the requirements for referral of delinquent debt as
9 established by rule by the Department of Revenue. The Bureau
10 shall use all legal means available to collect child support
11 debt, including those authorizing the Department of Revenue to
12 collect debt and those authorizing the Department of Healthcare
13 and Family Services to collect debt. All such referred debt
14 shall remain an obligation under the Department of Healthcare
15 and Family Services' Child Support Enforcement Program subject
16 to the requirements of Title IV, Part D of the federal Social
17 Security Act, including the continued use of federally mandated
18 enforcement remedies and techniques by the Department of
19 Healthcare and Family Services.

20 (g-1) The Department of Employment Security is exempt from
21 subsection (a) with regard to debts to any federal account,
22 including but not limited to the Unemployment Trust Fund, and
23 penalties and interest assessed under the Unemployment
24 Insurance Act. The Department of Employment Security may refer
25 those debts to the Bureau, provided the debt satisfies the
26 requirements for referral of delinquent debt as established by

1 rule by the Department of Revenue. The Bureau shall use all
2 legal means available to collect the debts, including those
3 authorizing the Department of Revenue to collect debt and those
4 authorizing the Department of Employment Security to collect
5 debt. All referred debt shall remain an obligation to the
6 account to which it is owed.

7 (h) The Debt Collection Fund is created as a special fund
8 in the State treasury. Debt collection contractors under this
9 Act shall receive a contingency fee as provided by the terms of
10 their contracts with the Department of Revenue. Thereafter, 20%
11 of all amounts collected by the Bureau, excluding amounts
12 collected on behalf of the Departments of Healthcare and Family
13 Services (formerly Public Aid) and Revenue, shall be deposited
14 into the Debt Collection Fund, except that the Bureau shall not
15 impose the 20% collection fee on any accounts referred by the
16 General Assembly, the Supreme Court and several courts of this
17 State, and the State executive branch constitutional officers.

18 All remaining amounts collected shall be deposited into the
19 General Revenue Fund unless the funds are owed to any State
20 fund or funds other than the General Revenue Fund. Moneys in
21 the Debt Collection Fund shall be appropriated only for the
22 administrative costs of the Bureau. On the last day of each
23 fiscal year, unappropriated moneys and moneys otherwise deemed
24 unneeded for the next fiscal year remaining in the Debt
25 Collection Fund may be transferred into the General Revenue
26 Fund at the Governor's reasonable discretion. The provisions of

1 this subsection do not apply to debt that is exempt from
2 subsection (a) pursuant to subsection (g-1) or child support
3 debt referred to the Bureau by the Department of Healthcare and
4 Family Services (formerly Department of Public Aid) pursuant to
5 this amendatory Act of the 93rd General Assembly. Collections
6 arising from referrals from the Department of Healthcare and
7 Family Services (formerly Department of Public Aid) shall be
8 deposited into such fund or funds as the Department of
9 Healthcare and Family Services shall direct, in accordance with
10 the requirements of Title IV, Part D of the federal Social
11 Security Act, applicable provisions of State law, and the rules
12 of the Department of Healthcare and Family Services.
13 Collections arising from referrals from the Department of
14 Employment Security shall be deposited into the fund or funds
15 that the Department of Employment Security shall direct, in
16 accordance with the requirements of Section 3304(a)(3) of the
17 federal Unemployment Tax Act, Section 303(a)(4) of the federal
18 Social Security Act, and the Unemployment Insurance Act.

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

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

26 (k) The Department of Revenue shall adopt rules and

1 procedures for the administration of this amendatory Act of the
2 93rd General Assembly. The rules shall be adopted under the
3 Department of Revenue's emergency rulemaking authority within
4 90 days following the effective date of this amendatory Act of
5 the 93rd General Assembly due to the budget crisis threatening
6 the public interest.

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

10 (Source: P.A. 95-331, eff. 8-21-07.)

11 (30 ILCS 210/8 rep.)

12 Section 10. The Illinois State Collection Act of 1986 is
13 amended by repealing Section 8.

14 Section 15. The Illinois Procurement Code is amended by
15 changing Sections 50-11 and 50-60 as follows:

16 (30 ILCS 500/50-11)

17 Sec. 50-11. Debt delinquency.

18 (a) No person shall submit a bid for or enter into a
19 contract with a State agency under this Code if that person
20 knows or should know that he or she or any affiliate is
21 delinquent in the payment of any debt to the State, unless the
22 person or affiliate has entered into a deferred payment plan to
23 pay off the debt. For purposes of this Section, the phrase

1 "delinquent in the payment of any debt" shall be determined by
2 the Debt Collection Bureau ~~Board~~. For purposes of this Section,
3 the term "affiliate" means any entity that (1) directly,
4 indirectly, or constructively controls another entity, (2) is
5 directly, indirectly, or constructively controlled by another
6 entity, or (3) is subject to the control of a common entity.
7 For purposes of this subsection (a), a person controls an
8 entity if the person owns, directly or individually, more than
9 10% of the voting securities of that entity. As used in this
10 subsection (a), the term "voting security" means a security
11 that (1) confers upon the holder the right to vote for the
12 election of members of the board of directors or similar
13 governing body of the business or (2) is convertible into, or
14 entitles the holder to receive upon its exercise, a security
15 that confers such a right to vote. A general partnership
16 interest is a voting security.

17 (b) Every bid submitted to and contract executed by the
18 State shall contain a certification by the bidder or contractor
19 that the contractor and its affiliate is not barred from being
20 awarded a contract under this Section and that the contractor
21 acknowledges that the contracting State agency may declare the
22 contract void if the certification completed pursuant to this
23 subsection (b) is false.

24 (Source: P.A. 92-404, eff. 7-1-02; 93-25, eff. 6-20-03.)

1 Sec. 50-60. Voidable contracts.

2 (a) If any contract is entered into or purchase or
3 expenditure of funds is made in violation of this Code or any
4 other law, the contract may be declared void by the chief
5 procurement officer or may be ratified and affirmed, provided
6 the chief procurement officer determines that ratification is
7 in the best interests of the State. If the contract is ratified
8 and affirmed, it shall be without prejudice to the State's
9 rights to any appropriate damages.

10 (b) If, during the term of a contract, the contracting
11 agency determines that the contractor is delinquent in the
12 payment of debt as set forth in Section 50-11 of this Code, the
13 State agency may declare the contract void if it determines
14 that voiding the contract is in the best interests of the
15 State. The Debt Collection Bureau ~~Board~~ shall adopt rules for
16 the implementation of this subsection (b).

17 (c) If, during the term of a contract, the contracting
18 agency determines that the contractor is in violation of
19 Section 50-10.5 of this Code, the contracting agency shall
20 declare the contract void.

21 (Source: P.A. 92-404, eff. 7-1-02; 93-600, eff. 1-1-04.)