



Sen. James F. Clayborne, Jr.

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1 AMENDMENT TO SENATE BILL 397

2 AMENDMENT NO. _____. Amend Senate Bill 397 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Department of Revenue Law of the Civil
5 Administrative Code of Illinois is amended by adding Section
6 2505-660 as follows:

7 (20 ILCS 2505/2505-660 new)

8 Sec. 2505-660. Collection of delinquent debts; housing
9 authority. Upon certification by a housing authority of the
10 amounts of delinquent debts, the Department of Revenue may
11 collect the delinquent debts by intercepting the tax refund of
12 any person owing the delinquent debts. The Department of
13 Revenue shall enter into an agreement with the housing
14 authority as provided in Section 8.1d of the Housing
15 Authorities Act prior to undertaking any collections under this
16 Section. Any agreement between the Department of Revenue and

1 the housing authority for the intercept of tax refunds shall
2 contain provisions for certification of debt, notification to
3 the taxpayer of the intercept, and treatment of joint returns
4 that are consistent with the requirements for a refund
5 withholding request under Section 8.1d of the Housing
6 Authorities Act.

7 Section 10. The Illinois Income Tax Act is amended by
8 changing Section 911.3 as follows:

9 (35 ILCS 5/911.3)

10 Sec. 911.3. Refunds withheld; order of honoring requests.
11 The Department shall honor refund withholding requests in the
12 following order:

13 (1) a refund withholding request to collect an unpaid
14 State tax;

15 (2) a refund withholding request to collect certified
16 past due child support amounts under Section 2505-650 of
17 the Department of Revenue Law of the Civil Administrative
18 Code of Illinois;

19 (3) a refund withholding request to collect any debt
20 owed to the State;

21 (4) a refund withholding request made by the Secretary
22 of the Treasury of the United States, or his or her
23 delegate, to collect any tax liability arising from Title
24 26 of the United States Code;

1 (5) a refund withholding request pursuant to Section
2 911.2 of this Act; ~~and~~

3 (6) a refund withholding request to collect certified
4 past due fees owed to the Clerk of the Circuit Court as
5 authorized under Section 2505-655 of the Department of
6 Revenue Law of the Civil Administrative Code of Illinois;
7 and ~~and~~

8 (7) a refund withholding request to collect a
9 delinquent debt owed to a housing authority as authorized
10 under Section 2505-660 of the Department of Revenue Law of
11 the Civil Administrative Code of Illinois

12 (Source: P.A. 92-826, eff. 8-21-02; 93-836, eff. 1-1-05.)

13 Section 15. The Housing Authorities Act is amended by
14 adding Section 8.1d as follows:

15 (310 ILCS 10/8.1d new)

16 Sec. 8.1d. Collection of debt; setoff program.

17 (a) Definitions. As used in this Section:

18 "Debtor" means a person having a delinquent debt with a
19 housing authority which has not been adjusted, satisfied, or
20 set aside by court order, or discharged in bankruptcy.

21 "Delinquent debt" means a sum which has been reduced to
22 judgment in a final court order and is due and owing a housing
23 authority, including collection costs, court costs, fines,
24 penalties, and interest which have accrued through contract,

1 subrogation, tort, operation of law, or other legal theory.
2 "Delinquent debt" does not include sums owed to a housing
3 authority when the housing authority and the debtor have
4 entered into a written payment agreement and the debtor is
5 current in meeting the obligations of the agreement.
6 "Delinquent debt" also includes any fine, penalty, cost, fee,
7 assessment, surcharge, service charge, restitution, or other
8 amount imposed by a court or as a direct consequence of a final
9 court order which is received by or payable to the clerk of the
10 appropriate court or treasurer of the entity where the court is
11 located.

12 "Refund" means any individual Illinois income tax refund
13 payable. "Refund" also includes a refund belonging to a debtor
14 resulting from the filing of a joint income tax return.

15 (b) Collection of debt; information to be given by housing
16 authority; information to be given by Department of Revenue to
17 housing authority.

18 (1) The collection remedy under this Section is in
19 addition to any other remedy available by law.

20 (2) Housing authorities may submit for collection
21 under the procedure established by this Section all
22 delinquent debts which they are owed.

23 (3) All housing authorities, whenever possible, shall
24 obtain the full name, social security number, address, and
25 any other identifying information, required by rules
26 promulgated by the Department of Revenue for

1 implementation of this Section, from any person for whom
2 the housing authorities provide any service or transact any
3 business and who the housing authorities can foresee may
4 become a debtor under the terms of this Section.

5 (4) Upon request from a housing authority, the
6 Department of Revenue shall furnish to the housing
7 authority any information the Department of Revenue deems
8 necessary to properly notify the debtor.

9 (c) Choice of housing authority as to use of or
10 participation in setoff program. If the housing authority
11 determines that the administrative cost of utilizing this
12 Section is prohibitive, it may choose not to participate in the
13 setoff program, or it may choose to participate only in cases
14 of delinquent debts above an amount it determines appropriate.

15 (d) Department of Revenue to assist in collection of
16 delinquent debt by setoff of any refunds due to debtor. Subject
17 to the limitations contained in this Section, the Department of
18 Revenue, upon request, shall render assistance in the
19 collection of any delinquent debt owing to any housing
20 authority by setting off any refunds due the debtor from the
21 Department of Revenue by the sum certified by the housing
22 authority as delinquent debt.

23 (e) Notification by housing authority; refund
24 determinations; Department of Revenue liability.

25 (1) A housing authority seeking to attempt collection
26 of a delinquent debt through setoff shall notify the

1 Department of Revenue in writing and supply information the
2 Department of Revenue determines necessary to identify the
3 debtor whose refund is sought to be set off. A request for
4 setoff may be made only after the housing authority has
5 notified the debtor of its intention to cause the debtor's
6 refund to be set off. The housing authority shall promptly
7 notify the debtor when the liability out of which the
8 setoff arises is satisfied. The housing authority shall
9 promptly notify the Department of Revenue of a reduction in
10 the delinquent debt.

11 (2) Upon receiving the certification of the housing
12 authority of the amount of the delinquent debt, the
13 Department of Revenue shall determine if the debtor is due
14 a refund. If the debtor is due a refund of more than a
15 tolerance amount as determined by the Department of
16 Revenue, the Department of Revenue shall set off the
17 delinquent debt against the amount of the refund. The
18 Department of Revenue may retain an amount not to exceed
19 \$25 of each refund set off to defray its administrative
20 expenses, and that amount may be added to the debt.
21 Apportionment is not required in the case of a refund
22 resulting from filing a joint return. A person has no
23 property right or property interest in a refund until all
24 amounts due the State and housing authorities are paid. The
25 Department of Revenue shall consider a delinquent debt and
26 debtor list provided by a housing authority as correct and

1 the Department of Revenue is not liable for a wrongful or
2 improper setoff.

3 (f) Notice of intention to set off debt; form, delivery and
4 presumption. The notice of intention to set off must be given
5 by mailing the notice, with postage prepaid, addressed to the
6 debtor at the address provided to the housing authority when
7 the debt was incurred or at the debtor's last known address. If
8 the notice is returned to the housing authority as
9 undeliverable or the housing authority has any reason to
10 believe the debtor did not receive the notice, the housing
11 authority shall obtain the last known address of the debtor
12 from the Department of Revenue and resend the notice. The
13 giving of the notice by mail is complete upon mailing the
14 notice or resending the notice if the notice is returned to the
15 housing authority as undeliverable or the housing authority has
16 any reason to believe the debtor did not receive the notice. A
17 certification by the housing authority that the notice has been
18 sent is presumptive proof that the requirements as to notice
19 are met, even if the notice actually has not been received by
20 the debtor. The notice must include a statement substantially
21 as follows:

22 "According to our records, you owe the (housing authority)
23 a debt in the amount of (amount of the debt), plus interest, if
24 applicable, for (type of debt). You are hereby notified of the
25 (housing authority's) intention to submit this debt to the
26 Illinois Department of Revenue of Revenue to be set off against

1 your individual income tax refunds until the debt is paid in
2 full. Pursuant to Section 8.1d of the Housing Authorities Act,
3 Section 2505-660 of the Department of Revenue Law of the Civil
4 Administrative Code of Illinois, and Section 911.3 of the
5 Illinois Income Tax Act, this amount, plus \$25 in
6 administrative costs, will be deducted from your Illinois
7 individual income tax refunds unless you fully satisfy this
8 debt with the (housing authority). If you file a joint return
9 with your spouse, this amount will be deducted from the total
10 joint refunds without regard to which spouse incurred the debt
11 or actually withheld the taxes."

12 (g) Agreements; credit to debtor's obligation by housing
13 authority; notification of housing authority to debtor of
14 setoff.

15 (1) A housing authority may enter into an agreement
16 with the Department of Revenue to establish a program for
17 the purpose of collecting certain delinquent debts. The
18 purpose shall be to intercept, in whole or in part, State
19 income tax refunds due the persons who owe delinquent debts
20 to the housing authority in order to satisfy delinquent
21 debts. The agreement shall include, but may not be limited
22 to, a certification by the housing authority that the debt
23 claims forwarded to the Department of Revenue are valid,
24 that reasonable efforts have been made to notify persons of
25 the delinquency of the debts, and that the delinquent debts
26 have been reduced to judgment in a final court order. The

1 agreement shall include provisions for payment of the
2 intercept by the Department of Revenue to the housing
3 authority. The agreement may also include provisions to
4 allow the Department of Revenue to recover its cost for
5 administering the program. Intercepts made pursuant to
6 this Section shall not interfere with the collection of
7 debts related to child support. During the collection of
8 debts under this Section, when there are 2 or more debt
9 claims certified to the Department of Revenue at the same
10 time, priority of collection shall be as provided in
11 Section 911.3 of the Illinois Income Tax Act.

12 (2) Upon receipt by a housing authority of proceeds
13 collected on its behalf by the Department of Revenue the
14 housing authority shall credit the debtor's obligation and
15 shall notify the debtor in writing of the amount of the
16 setoff.

17 (3) The Department of Revenue may add an administrative
18 fee of no more than \$25 to the delinquent debt. This fee
19 shall be used by the Department of Revenue to cover any
20 administrative costs pursuant to this Section.

21 (h) Information from Department of Revenue to be used only
22 by housing authority for collection purposes; penalties for
23 disclosure.

24 (1) The exchange of information among the Department of
25 Revenue, housing authority, and the debtor pursuant to this
26 Section is lawful.

1 (2) The information obtained by a housing authority
2 from the Department of Revenue in accordance with the
3 exemption allowed by paragraph (1) may be used by the
4 housing authority only in the pursuit of its debt
5 collection duties and practices. A person employed by or
6 formerly employed by the housing authority who knowingly
7 discloses the information for another purpose commits a
8 Class A misdemeanor.

9 (i) Indemnification of Department of Revenue by housing
10 authority. Housing authorities shall indemnify the Department
11 of Revenue against any injuries, actions, liabilities, or
12 proceedings arising from performance under the provisions of
13 this Section.

14 (j) Department of Revenue rules, forms, and procedures
15 permitted. The Department of Revenue may promulgate rules and
16 prescribe forms and procedures necessary to implement this
17 Section."