

AN ACT concerning State government.

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

Section 5. The State Comptroller Act is amended by changing Section 10.05 and by adding Section 10.05c as follows:

(15 ILCS 405/10.05) (from Ch. 15, par. 210.05)

Sec. 10.05. Deductions from warrants; statement of reason for deduction. Whenever any person shall be entitled to a warrant or other payment from the treasury or other funds held by the State Treasurer, on any account, against whom there shall be any account or claim in favor of the State or to the United States upon certification by the Secretary of the Treasury of the United States, or his or her delegate, pursuant to a reciprocal offset agreement under subsection (i-1) of Section 10 of the Illinois State Collection Act of 1986, then due and payable, the Comptroller, upon notification thereof, shall ascertain the amount due and payable to the State, or to the United States, as aforesaid, and draw a warrant on the treasury or on other funds held by the State Treasurer, stating the amount for which the party was entitled to a warrant or other payment, the amount deducted therefrom, and on what account, and directing the payment of the balance; which warrant or payment as so drawn shall be entered on the books of

the Treasurer, and such balance only shall be paid. The Comptroller may deduct the entire amount due and payable to the State or may deduct a portion of the amount due and payable to the State in accordance with the request of the notifying agency, and may deduct the entire amount due and payable to the United States, or may deduct a portion of the amount due and payable to the United States, in accordance with a reciprocal offset agreement under subsection (i-1) of Section 10 of the Illinois State Collection Act of 1986. No request from a notifying agency or from the Secretary of the Treasury of the United States for an amount to be deducted under this Section from a wage or salary payment, or from a contractual payment to an individual for personal services, shall exceed 25% of the net amount of such payment. "Net amount" means that part of the earnings of an individual remaining after deduction of any amounts required by law to be withheld. For purposes of this provision, wage, salary or other payments for personal services shall not include final compensation payments for the value of accrued vacation, overtime or sick leave. Whenever the Comptroller draws a warrant or makes a payment involving a deduction ordered under this Section, the Comptroller shall notify the payee and the State agency that submitted the voucher of the reason for the deduction and he or she shall retain a record of such statement in his or her records. As used in this Section, an "account or claim in favor of the State" includes all amounts owing to "State agencies" as

defined in Section 7 of this Act. However, the Comptroller shall not be required to accept accounts or claims owing to funds not held by the State Treasurer, where such accounts or claims do not exceed \$50, nor shall the Comptroller deduct from funds held by the State Treasurer under the Senior Citizens and Disabled Persons Property Tax Relief and Pharmaceutical Assistance Act or for payments to institutions from the Illinois Prepaid Tuition Trust Fund (unless the Trust Fund moneys are used for child support). The Comptroller and the Department of Revenue ~~the Lottery~~ shall enter into an interagency agreement to establish responsibility, duties, and procedures relating to deductions from lottery prizes awarded under Section 20.1 of the Illinois Lottery Law. The Comptroller may enter into an intergovernmental agreement with the Department of Revenue and the Secretary of the Treasury of the United States, or his or her delegate, to establish responsibilities, duties, and procedures relating to reciprocal offset of delinquent State and federal obligations pursuant to subsection (i-1) of Section 10 of the Illinois State Collection Act of 1986.

(Source: P.A. 93-56, eff. 7-1-03.)

(15 ILCS 405/10.05c new)

Sec. 10.05c. Deduction from warrants and payments for satisfaction of delinquent federal obligations. Pursuant to the procedures established under a reciprocal offset agreement

entered into under Section 10.05 and subsection (i-1) of Section 10 of the Illinois State Collection Act of 1986, the Comptroller shall deduct from a warrant or other payment described in Section 10.05, in accordance with the procedures provided therein, and pay over to the Secretary of the Treasury of the United States, or his or her delegate, that amount certified as necessary to satisfy, in whole or in part a delinquent federal obligation. The Comptroller shall provide the Secretary of the Treasury of the United States, or his or her delegate, with the address to which the warrant or other payment was to be mailed and the social security number of each person from whom a deduction is made pursuant to this Section.

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

(30 ILCS 210/10)

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, and may use the offset system of the Department of the Treasury of the United States for the collection of State debt pursuant to Sections 10.05 and 10.05c of the State Comptroller Act and subsection (i-1) of Section 10 of the Illinois State Collection Act of 1986. 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 in accordance with the requirements of the Uncollected State Claims Act 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 Healthcare and Family Services 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 Healthcare and Family Services 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 Healthcare and Family Services to collect debt. All such referred debt shall remain an obligation under the Department of Healthcare

and Family Services' 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 Healthcare and Family Services.

(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 Bureau may collect its costs of collecting debts on behalf of other State agencies from those agencies in a manner to be determined by the Director of Revenue, except that the Bureau shall not recover any such cost on any accounts referred by the General Assembly, the Supreme Court and other courts of this State, and the State executive branch constitutional officers. 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 Healthcare and Family Services (formerly Department of Public Aid) pursuant to this amendatory Act of the 93rd General Assembly. Collections arising from referrals from the Department of Healthcare and Family Services (formerly Department of Public Aid) shall be deposited into such fund or funds as the Department of Healthcare and Family Services 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 Healthcare and Family Services. 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.

(i-1) The Department may enter into a reciprocal offset agreement with the Office of the State Comptroller and the Secretary of the Treasury of the United States, or his or her delegate, which provides for (i) the use of the Comptroller's offset system to offset State payments to collect federal nontax debts and for the Comptroller to charge a fee up to \$25

per transaction for such offsets; and (ii) offsetting federal payments, as authorized by federal law, to collect State debts, State tax, and nontax obligations, and for the Comptroller to collect the offset cost from the Department of the Treasury of the United States to cover the full cost of offsets taken, to the extent allowed by federal law, or, if not allowed by federal law, from the debtor by offset of the overpayment. The agreement shall provide that the Department of the Treasury of the United States may deduct a fee from each administrative offset and State payment offset. Any offset fees collected by the Comptroller under this subsection for administrative offset or State payment offset shall be deposited into the Comptroller's Administrative Fund.

For purposes of this subsection, "administrative offset" is any offset of federal payments to collect State debts.

For purposes of this subsection, "State payment offset" is any offset of State payments to collect federal nontax debts.

(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.

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

(Source: P.A. 95-331, eff. 8-21-07; 96-493, eff. 1-1-10; 96-1383, eff. 1-1-11.)

Section 15. The Illinois Income Tax Act is amended by changing Section 911.3 as follows:

(35 ILCS 5/911.3)

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

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

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

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

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

26 of the United States Code;

(4.5) a refund withholding request made by the Secretary of the Treasury of the United States, or his or her delegate, to collect any nontax debt owed to the United States as authorized under subsection (i-1) of Section 10 of the Illinois State Collection Act of 1986;

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

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

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