



## 97TH GENERAL ASSEMBLY

### State of Illinois

### 2011 and 2012

#### HB1527

Introduced 2/15/2011, by Rep. Lou Lang

#### SYNOPSIS AS INTRODUCED:

15 ILCS 405/10.05 from Ch. 15, par. 210.05  
15 ILCS 405/10.05c new  
30 ILCS 210/10  
35 ILCS 5/911.3

Amends the State Comptroller Act, the Illinois State Collection Act of 1986, and the Illinois Income Tax Act. Provides that the Department of Revenue 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. Sets forth the requirements for the agreement. Makes other changes.

LRB097 08667 RLJ 48796 b

FISCAL NOTE ACT  
MAY APPLY

1 AN ACT concerning State government.

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

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

6 (15 ILCS 405/10.05) (from Ch. 15, par. 210.05)

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

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

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

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

22 (15 ILCS 405/10.05c new)

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

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

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

15 (30 ILCS 210/10)

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

18 (a) The Department of Revenue's Debt Collection Bureau  
19 shall serve as the primary debt collecting entity for the State  
20 and in that role shall collect debts on behalf of agencies of  
21 the State. All debts owed the State of Illinois shall be  
22 referred to the Bureau, subject to such limitations as the  
23 Department of Revenue shall by rule establish. The Bureau shall  
24 utilize the Comptroller's offset system and private collection

1 agencies, as well as its own collections personnel, and may use  
2 the offset system of the Department of the Treasury of the  
3 United States for the collection of State debt pursuant to  
4 Sections 10.05 and 10.05c of the State Comptroller Act and  
5 subsection (i-1) of Section 10 of the Illinois State Collection  
6 Act of 1986. The Bureau shall collect debt using all legal  
7 authority available to the Department of Revenue to collect  
8 debt and all legal authority available to the referring agency.

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

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

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

24 (e) Once an agency's debt is deemed by the Bureau to be  
25 uncollectible, the Bureau shall return the debt to the  
26 referring agency which shall then write the debt off as

1 uncollectible in accordance with the requirements of the  
2 Uncollected State Claims Act or return the debt to the Bureau  
3 for additional collection efforts. The Bureau shall refuse to  
4 accept debt that has been deemed uncollectible absent factual  
5 assertions from the referring agency that due to circumstances  
6 not known at the time the debt was deemed uncollectible that  
7 the debt is worthy of additional collection efforts.

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

14 (g) The Department of Healthcare and Family Services shall  
15 be exempt from the requirements of this Section with regard to  
16 child support debts, the collection of which is governed by the  
17 requirements of Title IV, Part D of the federal Social Security  
18 Act. The Department of Healthcare and Family Services may refer  
19 child support debts to the Bureau, provided that the debt  
20 satisfies the requirements for referral of delinquent debt as  
21 established by rule by the Department of Revenue. The Bureau  
22 shall use all legal means available to collect child support  
23 debt, including those authorizing the Department of Revenue to  
24 collect debt and those authorizing the Department of Healthcare  
25 and Family Services to collect debt. All such referred debt  
26 shall remain an obligation under the Department of Healthcare

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

6 (g-1) The Department of Employment Security is exempt from  
7 subsection (a) 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) The Bureau may collect its costs of collecting debts on  
20 behalf of other State agencies from those agencies in a manner  
21 to be determined by the Director of Revenue, except that the  
22 Bureau shall not recover any such cost on any accounts referred  
23 by the General Assembly, the Supreme Court and other courts of  
24 this State, and the State executive branch constitutional  
25 officers. The provisions of this subsection do not apply to  
26 debt that is exempt from subsection (a) pursuant to subsection



1 (g-1) or child support debt referred to the Bureau by the  
2 Department of Healthcare and Family Services (formerly  
3 Department of Public Aid) pursuant to this amendatory Act of  
4 the 93rd General Assembly. Collections arising from referrals  
5 from the Department of Healthcare and Family Services (formerly  
6 Department of Public Aid) shall be deposited into such fund or  
7 funds as the Department of Healthcare and Family Services shall  
8 direct, in accordance with the requirements of Title IV, Part D  
9 of the federal Social Security Act, applicable provisions of  
10 State law, and the rules of the Department of Healthcare and  
11 Family Services. Collections arising from referrals from the  
12 Department of Employment Security shall be deposited into the  
13 fund or funds that the Department of Employment Security shall  
14 direct, in accordance with the requirements of Section  
15 3304(a)(3) of the federal Unemployment Tax Act, Section  
16 303(a)(4) of the federal Social Security Act, and the  
17 Unemployment Insurance Act.

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

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

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

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

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

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

22 (k) The Department of Revenue shall adopt rules and  
23 procedures for the administration of this amendatory Act of the  
24 93rd General Assembly. The rules shall be adopted under the  
25 Department of Revenue's emergency rulemaking authority within  
26 90 days following the effective date of this amendatory Act of

1 the 93rd General Assembly due to the budget crisis threatening  
2 the public interest.

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

6 (Source: P.A. 95-331, eff. 8-21-07; 96-493, eff. 1-1-10;  
7 96-1383, eff. 1-1-11.)

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

10 (35 ILCS 5/911.3)

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

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

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

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

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

1 26 of the United States Code;

2 (4.5) a refund withholding request made by the  
3 Secretary of the Treasury of the United States, or his or  
4 her delegate, to collect any nontax debt owed to the United  
5 States as authorized under subsection (i-1) of Section 10  
6 of the Illinois State Collection Act of 1986;

7 (5) a refund withholding request pursuant to Section  
8 911.2 of this Act; and

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

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