



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

SB2293

Introduced 2/10/2011, by Sen. Pamela J. Althoff

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 08670 RLJ 48799 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.)