

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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HOUSE BILL 733

Short Title: Employment Security Debt Set-off.

(Public)

Sponsors: Representatives Robinson; Decker, Brawley, Abernethy, and Bowman.

Referred to: Commerce.

March 20, 1989

A BILL TO BE ENTITLED

AN ACT TO MODIFY PROCEDURES FOR SETTING OFF AGAINST A  
DEBTOR'S STATE TAX REFUND DEBTS OWED TO THE EMPLOYMENT  
SECURITY COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105A-2 reads as rewritten:

**"§ 105A-2. Definitions.**

As used in this Article:

(1) 'Claimant agency' means and includes:

- a. The State Education Assistance Authority as enabled by Article 23 of Chapter 116 of the General Statutes;
- b. The North Carolina Department of Human Resources when in the exercise of its authority to collect health profession student loans made pursuant to G.S. 131-121;
- c. The North Carolina Department of Human Resources when in the performance of its duties under the Medical Assistance Program enabled by Chapter 108A, Article 2, Part 6, and any county operating the same Program at the local level, when and only to the extent such a county is in the performance of Medical Assistance Program collection functions;
- d. The North Carolina Department of Human Resources when in the performance of its duties, under the Child Support Enforcement Program as enabled by Chapter 110, Article 9 and Title IV, Part D of the Social Security Act to obtain

- 1 indemnification for past paid public assistance or to collect  
2 child support arrearages owed to an individual receiving  
3 program services and any county operating the program at the  
4 local level, when and only to the extent that the county is  
5 engaged in the performance of those same duties.
- 6 e. The University of North Carolina, including its constituent  
7 institutions as specified by G.S. 116-2(4);
- 8 f. The North Carolina Memorial Hospital in the conduct of its  
9 financial affairs and operations pursuant to G.S. 116-37;
- 10 g. The Board of Governors of the University of North Carolina  
11 and the State Board of Education through the College  
12 Scholarship Loan Committee when in the performance of its  
13 duties of administering the Scholarship Loan Fund for  
14 Prospective College Teachers enabled by Chapter 116, Article  
15 5;
- 16 h. The Office of the North Carolina Attorney General on behalf of  
17 any State agency when the claim has been reduced to a  
18 judgment;
- 19 i. The State Board of Community Colleges through community  
20 colleges as enabled by Chapter 115D in the conduct of their  
21 financial affairs and operations;
- 22 j. State facilities as listed in G.S. 122C-181(a), School for the  
23 Deaf at Morganton, North Carolina Sanatorium at McCain,  
24 Western Carolina Sanatorium at Black Mountain, Eastern North  
25 Carolina Sanatorium at Wilson, and Gravelly Sanatorium at  
26 Chapel Hill under Chapter 143, Article 7; Governor Morehead  
27 School under Chapter 115, Article 40; Central North Carolina  
28 School for the Deaf under Chapter 115, Article 41; Wright  
29 School for Treatment and Education of Emotionally Disturbed  
30 Children under Chapter ~~122, Article 12A; 122C;~~ the Lenox  
31 Baker Children's Hospital under Chapter 131, Article 14; and  
32 these same institutions by any other names by which they may  
33 be known in the future;
- 34 k. The North Carolina Department of Revenue;
- 35 l. The Administrative Office of the Courts;
- 36 m. The Division of Forest Resources of the Department of Natural  
37 Resources and Community Development;
- 38 n. The Administrator of the Teachers' and State Employees'  
39 Comprehensive Major Medical Plan, established in Article 3 of  
40 General Statutes Chapter 135;
- 41 o. The State Board of Education through the Superintendent of  
42 Public Instruction when in the performance of his duties of  
43 administering the Scholarship Loan Fund for Prospective  
44 Teachers enabled by Chapter 115C, Article 32A and the

1 scholarship loan and grant programs enabled by Chapter 115C,  
2 Article 24C, Part 1.

3 p. The Board of Trustees of the Teachers' and State Employees'  
4 Retirement System and the Board of Trustees of the Local  
5 Governmental Employees' Retirement System in the  
6 performance of their duties pursuant to Chapters 120, 128, 135  
7 and 143 of the General Statutes.

8 q. The North Carolina Teaching Fellows Commission in the  
9 performance of its duties pursuant to Chapter 115C, Article  
10 24C, Part 2.

11 r. The North Carolina Department of Human Resources when in  
12 the performance of its intentional program violation collection  
13 duties under the Food Stamp Program enabled by Chapter  
14 108A, Article 2, Part 5, and any county operating the same  
15 Program at the local level, when and only to the extent such a  
16 county is in the performance of Food Stamp Program  
17 intentional program violation collection functions.

18 s. The Employment Security Commission of North Carolina.

19 (2) 'Debtor' means any individual owing money to or having a delinquent  
20 account with any claimant agency which obligation has not been  
21 adjudicated satisfied by court order, set aside by court order, or  
22 discharged in bankruptcy.

23 (3) 'Debt' means any liquidated sum due and owing any claimant agency  
24 which has accrued through contract, subrogation, tort, operation of  
25 law, or any other legal theory regardless of whether there is an  
26 outstanding judgment for that sum.

27 (4) 'Department' means the North Carolina Department of Revenue.

28 (5) 'Refund' means any individual's North Carolina income tax refund.

29 (6) 'Net proceeds collected' means gross proceeds collected through final  
30 setoff against a debtor's refund minus any collection assistance fee  
31 charged by the Department."

32 Sec. 2. G.S. 105A-8(a) reads as rewritten:

33 "(a) A hearing on a contested claim, other than a claim of a constituent institution  
34 of The University of North Carolina, or a claim of the Employment Security  
35 Commission of North Carolina, shall be conducted in accordance with Article 3 of  
36 Chapter 150B of the General Statutes. A hearing on a contested claim of a constituent  
37 institution of The University of North Carolina shall be conducted in accordance with  
38 administrative procedures approved by the Attorney General. A hearing on a contested  
39 claim of the Employment Security Commission of North Carolina shall be conducted in  
40 accordance with regulations adopted by the Employment Security Commission of North  
41 Carolina. Additionally, it shall be determined at the hearing whether the claimed sum  
42 asserted as due and owing is correct, and if not, an adjustment to the claim shall be  
43 made."

44 Sec. 3. G.S. 105A-9 reads as rewritten:

1 **"§ 105A-9. Appeals from hearings.**

2 Appeals from action taken at hearings allowed under this Article shall be in  
3 accordance with the provisions of Chapter ~~150A~~, 150B of the General Statutes, the  
4 Administrative Procedure Act, except that the place of initial judicial review shall be the  
5 superior court for the county in which the debtor resides. Appeals from actions allowed  
6 under this Article conducted by the Employment Security Commission of North  
7 Carolina shall be in accordance with the provisions of Chapter 96 of the General  
8 Statutes."

9 Sec. 4. This act is effective upon ratification.