

GENERAL ASSEMBLY OF NORTH CAROLINA
1989 SESSION

CHAPTER 539
HOUSE BILL 733

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 indemnification for past paid public assistance or to collect child support arrearages owed to an individual receiving program services and any county operating the program at the local level, when and only to the extent that the county is engaged in the performance of those same duties.
 - e. The University of North Carolina, including its constituent institutions as specified by G.S. 116-2(4);
 - f. The North Carolina Memorial Hospital in the conduct of its financial affairs and operations pursuant to G.S. 116-37;
 - g. The Board of Governors of the University of North Carolina and the State Board of Education through the College Scholarship Loan Committee when in the performance of its

- duties of administering the Scholarship Loan Fund for Prospective College Teachers enabled by Chapter 116, Article 5;
- h. The Office of the North Carolina Attorney General on behalf of any State agency when the claim has been reduced to a judgment;
 - i. The State Board of Community Colleges through community colleges as enabled by Chapter 115D in the conduct of their financial affairs and operations;
 - j. State facilities as listed in G.S. 122C-181(a), School for the Deaf at Morganton, North Carolina Sanatorium at McCain, Western Carolina Sanatorium at Black Mountain, Eastern North Carolina Sanatorium at Wilson, and Gravelly Sanatorium at Chapel Hill under Chapter 143, Article 7; Governor Morehead School under Chapter 115, Article 40; Central North Carolina School for the Deaf under Chapter 115, Article 41; Wright School for Treatment and Education of Emotionally Disturbed Children under Chapter ~~122, Article 12A; 122C;~~ the Lenox Baker Children's Hospital under Chapter 131, Article 14; and these same institutions by any other names by which they may be known in the future;
 - k. The North Carolina Department of Revenue;
 - l. The Administrative Office of the Courts;
 - m. The Division of Forest Resources of the Department of Natural Resources and Community Development;
 - n. The Administrator of the Teachers' and State Employees' Comprehensive Major Medical Plan, established in Article 3 of General Statutes Chapter 135;
 - o. The State Board of Education through the Superintendent of Public Instruction when in the performance of his duties of administering the Scholarship Loan Fund for Prospective Teachers enabled by Chapter 115C, Article 32A and the scholarship loan and grant programs enabled by Chapter 115C, Article 24C, Part 1.
 - p. The Board of Trustees of the Teachers' and State Employees' Retirement System and the Board of Trustees of the Local Governmental Employees' Retirement System in the performance of their duties pursuant to Chapters 120, 128, 135 and 143 of the General Statutes.
 - q. The North Carolina Teaching Fellows Commission in the performance of its duties pursuant to Chapter 115C, Article 24C, Part 2.
 - r. The North Carolina Department of Human Resources when in the performance of its intentional program violation collection

duties under the Food Stamp Program enabled by Chapter 108A, Article 2, Part 5, 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 Food Stamp Program intentional program violation collection functions.

s. The Employment Security Commission of North Carolina.

- (2) 'Debtor' means any individual owing money to or having a delinquent account with any claimant agency which obligation has not been adjudicated satisfied by court order, set aside by court order, or discharged in bankruptcy.
- (3) 'Debt' means any liquidated sum due and owing any claimant agency which has accrued through contract, subrogation, tort, operation of law, or any other legal theory regardless of whether there is an outstanding judgment for that sum.
- (4) 'Department' means the North Carolina Department of Revenue.
- (5) 'Refund' means any individual's North Carolina income tax refund.
- (6) 'Net proceeds collected' means gross proceeds collected through final setoff against a debtor's refund minus any collection assistance fee charged by the Department."

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

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

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

"§ 105A-9. Appeals from hearings.

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

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 30th day of June, 1989.