

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001**

**SESSION LAW 2002-156
HOUSE BILL 1523**

AN ACT TO AMEND VARIOUS PROPERTY TAX LAWS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-357(b)(2) reads as rewritten:

"(2) Penalty. – In addition to interest for nonpayment of taxes provided by G.S. 105-360 and in addition to any criminal penalties provided by law for the giving of worthless checks, the penalty for giving in payment of taxes a check that is returned because of insufficient funds or nonexistence of an account of the drawer is twenty-five dollars (\$25.00) or ten percent (10%) of the amount of the check, whichever is greater, subject to a ~~minimum of one dollar (\$1.00) and a maximum of one thousand dollars (\$1,000)~~. This penalty does not apply if the tax collector finds that, when the check was presented for payment, the drawer of the check had sufficient funds in an account at a financial institution in this State to pay the check and, by inadvertence, the drawer of the check failed to draw the check on the account that had sufficient funds. This penalty shall be added to and collected in the same manner as the taxes for which the check was given."

SECTION 1.2. G.S. 105-358 reads as rewritten:

"§ 105-358. Partial Waiver of penalties; partial payments.

(a) Waiver. – A tax collector may, upon making a record of the reasons therefor, reduce or waive the ten percent (10%) penalty imposed on giving a worthless check under G.S. 105-357(b)(2).

(b) Partial Payments. – Unless otherwise directed by the governing body, the tax collector shall accept partial payments on taxes and issue partial payment receipts therefor.

When a payment is made on the tax for any year or on any installment, it shall first be applied to accrued penalties, interest, and costs and then to the principal amount of the tax or installment. In its discretion, the governing body may prescribe by uniform regulation the minimum amount or percentage of tax liability that may be accepted as a partial payment."

SECTION 2. G.S. 105-317.1 is amended by adding a new subsection to read:

"(c) A taxpayer who owns personal property taxable in the county may appeal the value, situs, or taxability of the property within 30 days after the date of the initial notice of value. If the assessor does not give separate written notice of the value to the taxpayer at the taxpayer's last known address, then the tax bill serves as notice of the value of the personal property. The notice must contain a statement that the taxpayer may appeal the value, situs, or taxability of the property within 30 days after the date of the notice. Upon receipt of a timely appeal, the assessor must arrange a conference with the taxpayer to afford the taxpayer the opportunity to present any evidence or argument regarding the value, situs, or taxability of the property. Within 30 days after the conference, the assessor must give written notice to the taxpayer of the assessor's final decision. Written notice of the decision is not required if the taxpayer signs an agreement accepting the value, situs, or taxability of the property. If an agreement is not

reached, the taxpayer has 30 days from the date of the notice of the assessor's final decision to request review of that decision by the board of equalization and review or, if that board is not in session, by the board of county commissioners. Unless the request for review is given at the conference, it must be made in writing to the assessor. Upon receipt of a timely request for review, the provisions of G.S. 105-322 or G.S. 105-325, as appropriate, must be followed."

SECTION 3. G.S. 105-322(g)(5) reads as rewritten:

- "(5) Duty to Change Abstracts and Records After Adjournment. – Following adjournment upon completion of its duties under subdivisions (g)(1) and (g)(2) of this subsection, the board may continue to meet to carry out the following duties:
- a. To hear and decide all appeals relating to discovered property under G.S. 105-312(d) and (k).
 - b. To hear and decide all appeals relating to the appraisal, situs, and taxability of classified motor vehicles under G.S. 105-330.2(b).
 - c. To hear and decide all appeals relating to audits conducted under G.S. 105-296(j) and relating to audits conducted under G.S. 105-296(j) and (l) of property classified at present-use value and property exempted or excluded from taxation.
 - d. To hear and decide all appeals relating to personal property under G.S. 105-317.1(c)."

SECTION 4. Section 4 of S.L. 2001-506 reads as rewritten:

"**SECTION 4.** Section 1 of this act is effective for taxes imposed for taxable years beginning on or after July 1, ~~2002~~2003. Sections 2 and 3 of this act become effective January 1, 2002, and apply to manufactured home title cancellations and to declarations of intent, deeds, deeds of trust, and other instruments recorded after that date. The remainder of this act is effective when it becomes law."

SECTION 5.(a) G.S. 105A-2 reads as rewritten:

"§ 105A-2. Definitions.

The following definitions apply in this Chapter:

- (1) Claimant agency. – Either of the following:
 - a. A State agency.
 - b. A local agency acting through a clearinghouse or an organization pursuant to G.S. 105A-3(b1).
- (2) Debt. – Any of the following:
 - a. A sum owed to a claimant agency that has accrued through contract, subrogation, tort, operation of law, or any other legal theory regardless of whether there is an outstanding judgment for the sum.
 - b. A sum a claimant agency is authorized or required by law to collect, such as child support payments collectible under Title IV, Part D of the Social Security Act.
 - c. A sum owed as a result of an intentional program violation or a violation due to inadvertent household error under the Food Stamp Program enabled by Chapter 108A, Article 2, Part 5.
 - d. Reserved for future codification purposes.
 - e. A sum owed as a result of having obtained public assistance payments under any of the following programs through an intentional false statement, intentional misrepresentation, intentional failure to disclose a material fact, or inadvertent household error:
 1. The Work First Program provided in Article 2 of Chapter 108A of the General Statutes.

2. The State-County Special Assistance for Adults Program enabled by Part 3 of Article 2 of Chapter 108A of the General Statutes.
 3. A successor program of one of these programs.
- (3) Debtor. – An individual who owes a debt.
 - (4) Department. – The Department of Revenue.
 - (5) Reserved.
 - (6) Local agency. – A county, to the extent it is not considered a State agency, or a municipality.
 - (7) Net proceeds collected. – Gross proceeds collected through setoff against a debtor's refund minus the collection assistance ~~fee retained by the Department.~~ fees provided in G.S. 105A-13.
 - (8) Refund. – An individual's North Carolina income tax refund.
 - (9) State agency. – Any of the following:
 - a. A unit of the executive, legislative, or judicial branch of State government.
 - b. A county, to the extent it administers a program supervised by the Department of Health and Human Services or it operates a Child Support Enforcement Program, enabled by Chapter 110, Article 9, and Title IV, Part D of the Social Security Act."

SECTION 5.(b) G.S. 105A-5 reads as rewritten:

"§ 105A-5. Local agency notice, hearing, and decision.

(a) Prerequisite. – A local agency may not submit a debt for collection under this Chapter until it has given the notice required by this section and the claim has been finally determined as provided in this section.

(b) Notice. – A local agency must send written notice to a debtor that the agency intends to submit the debt owed by the debtor for collection by setoff. The notice must explain the basis for the agency's claim to the ~~debt and debt~~, that the agency intends to apply the debtor's refund against the ~~debt.~~ debt, and that a collection assistance fee of fifteen dollars (\$15.00) will be added to the debt if it is submitted for setoff. The notice must also inform the debtor that the debtor has the right to contest the matter by filing a request for a hearing with the local agency, must state the time limits and procedure for requesting the hearing, and must state that failure to request a hearing within the required time will result in setoff of the debt.

(c) Administrative Review. – A debtor who decides to contest a proposed setoff must file a written request for a hearing with the local agency within 30 days after the date the local agency mails a notice of the proposed action to the debtor. A request for a hearing is considered to be filed when it is delivered for mailing with postage prepaid and properly addressed. The governing body of the local agency or a person designated by the governing body must hold the hearing.

If the debtor disagrees with the decision of the governing body or the person designated by the governing body, the debtor may file a petition for a contested case under Article 3 of Chapter 150B of the General Statutes. The petition must be filed within 30 days after the debtor receives a copy of the local decision. Notwithstanding the provisions of G.S. 150B-2, a local agency is considered an agency for purposes of contested cases and appeals under this Chapter.

In a hearing under this section, an issue that has previously been litigated in a court proceeding cannot be considered.

(d) Decision. – A decision made after a hearing under this section must determine whether a debt is owed to the local agency and the amount of the debt.

(e) Return of Amount Set Off. – If a local agency submits a debt for collection under this Chapter without sending the notice required by subsection (b) of this section, the agency must send the taxpayer the entire amount set off plus the collection assistance ~~fee.~~ fees retained by the Department provided in G.S. 105A-13. Similarly, if a local agency submits a debt for collection under this Chapter after sending the required

notice but before final determination of the debt and a decision finds that the local agency is not entitled to any part of the amount set off, the agency must send the taxpayer the entire amount set off plus the collection assistance ~~fee fees retained by the Department provided in G.S. 105A-13~~. That portion of the amount returned that reflects the collection assistance ~~fee fees~~ must be paid from the local agency's funds.

If a local agency submits a debt for collection under this Chapter after sending the required notice and the net proceeds collected that are credited to the local agency for the debt exceed the amount of the debt, the local agency must send the balance to the debtor. No part of the collection assistance ~~fee fees retained by the Department provided in G.S. 105A-13~~ may be returned when a notice was sent and a debt is owed but the debt is less than the amount set off.

Interest accrues on the amount of a refund returned to a taxpayer under this subsection in accordance with G.S. 105-266. A local agency that returns a refund to a taxpayer under this subsection must pay from the local agency's funds any interest that has accrued since the fifth day after the Department mailed the notice of setoff to the taxpayer."

SECTION 5.(c) G.S. 105A-13 reads as rewritten:

"§ 105A-13. Collection assistance fees.

(a) State Setoff. – To recover the costs incurred by the Department in collecting debts under this Chapter, a collection assistance fee of no more than fifteen dollars (\$15.00) is imposed on each debt collected through setoff. The Department must collect this fee as part of the debt and retain it. The Department must set the amount of the collection assistance fee based on its actual cost of collection under this Chapter for the immediately preceding year. ~~If the Department is able to collect only part of a debt through setoff, the collection assistance fee has priority over the remainder of the debt.~~ The collection assistance fee shall not be added to child support debts or collected as part of child support debts. Instead, the Department shall retain from collections under Division II of Article 4 of Chapter 105 of the General Statutes the cost of collecting child support debts under this Chapter.

(b) Repealed.

(c) Local Debts. – To recover the costs incurred by local agencies in submitting debts for collection under this Chapter, a local collection assistance fee of fifteen dollars (\$15.00) is imposed on each local agency debt submitted under G.S. 105A-3(b1) and collected through setoff. The Department must collect this fee as part of the debt and remit it to the clearinghouse that submitted the debt. The local collection assistance fee does not apply to child support debts.

(d) Priority. – If the Department is able to collect only part of a debt through setoff, the collection assistance fee provided in subsection (a) of this section has priority over the local collection assistance fee and over the remainder of the debt. The local collection assistance fee has priority over the remainder of the debt."

SECTION 6. Sections 1, 1.2, and 6 of this act are effective when they become law. Section 4 is effective on and after June 30, 2002. Sections 5(a), 5(b), and 5(c) become effective January 1, 2003. The remaining sections are effective for taxes imposed for taxable years beginning on or after July 1, 2003.

In the General Assembly read three times and ratified this the 1st day of October, 2002.

s/ Beverly E. Perdue
President of the Senate

s/ James B. Black
Speaker of the House of Representatives

s/ Michael F. Easley
Governor

Approved 2:40 p.m. this 9th day of October, 2002