

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2003

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HOUSE DRH30223-LC-99A (04/02)

Short Title: Debt Setoff for Hospital Services.

(Public)

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Sponsors: Representatives Insko and Justus (Primary Sponsors).

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Referred to:

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A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE PUBLIC AND NONPROFIT HOSPITALS TO USE THE  
SET-OFF DEBT COLLECTION ACT.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 105A-2(6) reads as rewritten:

**"§ 105A-2. Definitions.**

The following definitions apply in this Chapter:

...

(6) Local agency. – ~~A~~ Any of the following:

a. A county, to the extent it is not considered a State  
agency, ~~agency.~~

b. ~~or a~~ A municipality.

c. A public hospital as defined in G.S. 131E-48, to the extent it is  
not considered a State agency."

**SECTION 2.** 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, that the agency intends to apply the debtor's refund against the 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

1 required time will result in setoff of the debt. If the debt is for hospital services, the  
2 notice must also inform the debtor of the right to contest a debt setoff for hospital  
3 services based on family income, as provided in subsection (b1) of this section.

4 (b1) Hospital Services. – A local agency may submit a debt for hospital services  
5 for collection under this Chapter only if it has made reasonable efforts to collect the bill  
6 from any third-party payers and has waited for a period of at least 120 days after the  
7 mailing of the bill for the hospital services to the debtor's last known address. A local  
8 agency may not submit for collection a debt for hospital services if any of the following  
9 conditions are met:

10 (1) The debtor and local agency have entered into a written payment  
11 agreement with respect to the debt and the debtor is current in meeting  
12 the obligations of the agreement.

13 (2) Payment for the health care service by a third-party payer is under  
14 appeal.

15 (3) The debtor demonstrates that the debtor's family income is at or below  
16 one hundred fifty percent (150%) of the applicable federal poverty  
17 level, as defined in G.S. 108A-70.18, based on the debtor's family size.

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

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

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

32 (d) Decision. – A decision made after a hearing under this section must  
33 determine whether a debt is owed to the local agency and the amount of the debt. In the  
34 case of a debt for hospital services, the hearing must also determine whether any of the  
35 conditions set out in subsection (b1) bars submission of the debt for collection.

36 (e) Return of Amount Set Off. – If a local agency submits a debt for collection  
37 under this Chapter without sending the notice required by subsection (b) of this section,  
38 the agency must send the taxpayer the entire amount set off plus the collection  
39 assistance fees provided in G.S. 105A-13. Similarly, if a local agency submits a debt for  
40 collection under this Chapter after sending the required notice but before final  
41 determination of the debt and a decision finds that the local agency is not entitled to any  
42 part of the amount set off, the agency must send the taxpayer the entire amount set off  
43 plus the collection assistance fees provided in G.S. 105A-13. That portion of the amount

1 returned that reflects the collection assistance fees must be paid from the local agency's  
2 funds.

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

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

14 **SECTION 3.** This act becomes effective January 1, 2004, and applies to  
15 income tax refunds determined on or after that date.