

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2003

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HOUSE BILL 992  
Second Edition Engrossed 4/30/03

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: Judiciary I.

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April 9, 2003

1                                   A BILL TO BE ENTITLED  
2 AN ACT TO AUTHORIZE PUBLIC AND NONPROFIT HOSPITALS TO USE THE  
3 SET-OFF DEBT COLLECTION ACT.

4 The General Assembly of North Carolina enacts:

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

6 "**§ 105A-2. Definitions.**

7       The following definitions apply in this Chapter:

8           ...

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

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

12           b. ~~or a~~ A municipality.

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

15           **SECTION 2.** G.S. 105A-5 reads as rewritten:

16 "**§ 105A-5. Local agency notice, hearing, and decision.**

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

20       (b) Notice. – A local agency must send written notice to a debtor that the agency  
21 intends to submit the debt owed by the debtor for collection by setoff. The notice must  
22 explain the basis for the agency's claim to the debt, that the agency intends to apply the  
23 debtor's refund against the debt, and that a collection assistance fee of fifteen dollars  
24 (\$15.00) will be added to the debt if it is submitted for setoff. The notice must also  
25 inform the debtor that the debtor has the right to contest the matter by filing a request  
26 for a hearing with the local agency, must state the time limits and procedure for  
27 requesting the hearing, and must state that failure to request a hearing within the  
28 required time will result in setoff of the debt. If the debt is for hospital services, the

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

3 (b1) Hospital Services. – A local agency may submit a debt for hospital services  
4 for collection under this Chapter only if the local agency had not been successful after  
5 reasonable efforts to collect the bill from any third-party payers and has waited for a  
6 period of at least 180 days after the mailing of the bill for the hospital services to the  
7 debtor's last known address. A local agency may not submit for collection a debt for  
8 hospital services if any of the following conditions are met:

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

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

14 (3) The debtor demonstrates that the debtor's family income is at or below  
15 two hundred percent (200%) of the applicable federal poverty level, as  
16 defined in G.S. 108A-70.18, based on the debtor's family size.

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

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

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

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

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

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

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

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