

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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HOUSE BILL 124
Committee Substitute Favorable 3/17/93

Short Title: Statewide Accounts Receivable Program.

(Public)

Sponsors:

Referred to:

February 10, 1993

1 A BILL TO BE ENTITLED
2 AN ACT TO ESTABLISH A STATEWIDE PROGRAM TO IMPROVE THE
3 COLLECTION OF ACCOUNTS RECEIVABLE BY THE STATE.

4 The General Assembly of North Carolina enacts:

5 Section 1. Chapter 147 of the General Statutes is amended by adding a new
6 Article to read:

7 **"ARTICLE 6B.**

8 **"STATEWIDE ACCOUNTS RECEIVABLE PROGRAM.**

9 **"§ 147-86.20. Definitions.**

10 The following definitions apply in this Article:

11 (1) Account Receivable. – An asset of the State reflecting a debt that is
12 owed to the State and has not been received by the State agency
13 servicing the debt. The term includes claims, damages, fees, fines,
14 forfeitures, loans, overpayments, and tuition as well as penalties,
15 interest, and other costs authorized by law. The term does not include
16 court costs or fees assessed in actions before the General Court of
17 Justice or counsel fees and other expenses of representing indigents
18 under Article 36 of Chapter 7A of the General Statutes.

19 (2) Debtor. – A person who owes an account receivable.

20 (3) Past Due. – An account receivable is past due if the State has not
21 received payment of it by the payment due date.

- 1 (4) Person. – An individual, a fiduciary, a firm, a partnership, an
2 association, a corporation, a unit of government, or another group
3 acting as a unit.
- 4 (5) State Agency. – Defined in G.S. 147-64.4(4). The term does not
5 include, however, a community college, a local school administrative
6 unit, an area mental health, developmental disabilities, and substance
7 abuse authority, or the General Court of Justice.
- 8 (6) Write-off. – To remove an account receivable from a State agency's
9 accounts receivable records.

10 **"§ 147-86.21. State agencies to collect accounts receivable in accordance with**
11 **statewide policies.**

12 A State agency to which an account receivable is owed is responsible for collecting
13 the account receivable. In fulfilling this responsibility, a State agency shall establish
14 internal policies and procedures for the management and collection of accounts
15 receivable and shall submit its internal policies and procedures to the State Controller
16 for review.

17 The State Controller shall examine the policies and procedures submitted by a State
18 agency to determine whether they are consistent with statewide policies and procedures
19 adopted by the State Controller. The statewide policies and procedures shall ensure that
20 a State agency takes all cost-effective and appropriate actions to collect accounts
21 receivable owed to it. If the State Controller determines that a State agency's policies
22 and procedures are not consistent with the statewide policies and procedures, the State
23 Controller shall discuss the inconsistencies with the State agency to determine whether
24 special circumstances, such as a requirement of federal law, justify the inconsistencies.
25 If the State Controller, after consulting with the Office of the Attorney General, finds
26 that no special circumstances justify the inconsistencies, the State Controller shall notify
27 the State agency and the State agency shall conform its policies and procedures to the
28 statewide policies and procedures. If the State Controller finds that special
29 circumstances justify the inconsistencies, the State agency's internal policies and
30 procedures shall reflect the special circumstances.

31 **"§ 147-86.22. Statewide accounts receivable program.**

32 (a) Program. – The State Controller shall implement a statewide accounts
33 receivable program. As part of this program, the State Controller shall do all of the
34 following:

- 35 (1) Monitor the State's accounts receivable collection efforts.
- 36 (2) Coordinate information, systems, and procedures between State
37 agencies to maximize the collection of past-due accounts receivable.
- 38 (3) Adopt policies and procedures for the management and collection of
39 accounts receivable by State agencies.
- 40 (4) Establish procedures for writing off accounts receivable and for
41 determining when to end efforts to collect accounts receivable after
42 they have been written off.

43 (b) Credit Card Payment. – The State Controller may establish policies that allow
44 accounts receivable to be payable under certain conditions, with the concurrence of the

1 State Treasurer, by credit card. A condition of payment by credit card is receipt by the
2 appropriate State agency of the full amount of the account receivable owed to the State
3 agency. A debtor who pays by credit card shall be required to include an amount equal
4 to any fee charged by a depository financial institution for processing the credit card
5 payment. A payment of an account receivable that is made by credit card and is not
6 honored by the issuer of the credit card does not relieve the debtor of the obligation to
7 pay the account receivable.

8 (c) **Collection Techniques.** – The State Controller, in conjunction with the Office
9 of the Attorney General, shall establish policies and procedures to govern techniques for
10 collection of accounts receivable. These techniques may include use of credit reporting
11 bureaus, collection agencies, judicial remedies authorized by law, and administrative
12 setoff by a reduction of an individual's tax refund pursuant to the Setoff Debt Collection
13 Act, Chapter 105A of the General Statutes, or a reduction of another payment, other
14 than payroll, due from the State to a person to reduce or eliminate an account receivable
15 that the person owes the State.

16 **"§ 147-86.23. Interest and penalties.**

17 A State agency shall charge interest at the rate established pursuant to G.S. 105-
18 241.1(i) on a past-due account receivable from the date the account receivable was
19 due until it is paid. A State agency shall add to a past-due account receivable a late
20 payment penalty of no more than ten percent (10%) of the account receivable. A State
21 agency may waive a late-payment penalty for good cause shown. If another statute
22 requires the payment of interest or a penalty on a past-due account receivable, this
23 section does not apply to that past-due account receivable.

24 **"§ 147-86.24. Debtor information and skip tracing.**

25 A State agency shall collect from clients and debtors minimum identifying
26 information as prescribed by the State Controller. A State agency shall use all available
27 debtor information to skip trace debtors as prescribed by the State Controller.

28 The State Controller shall establish procedures to give the State Controller access to
29 information that is in the custody of a State agency and could assist another State
30 agency in the collection of accounts receivable owed to that State agency. A State
31 agency that has this information shall cooperate with the State Controller in giving the
32 State Controller access to the information. If the information is contained in an
33 electronic database, the State agency shall provide the State Controller on-line
34 electronic access upon request. A State agency is not required to give the State
35 Controller access to information when a State or federal law prohibits the disclosure of
36 the information.

37 **"§ 147-86.25. Setoff debt collection.**

38 The State Controller shall implement a statewide setoff debt collection program to
39 provide for collection of accounts receivable that have been written off. The statewide
40 program shall supplement the Setoff Debt Collection Act, Chapter 105A of the General
41 Statutes, and shall provide for written-off accounts receivable to be set off against
42 payments the State owes to debtors, other than payments of individual income tax
43 refunds and payroll.

1 A program shall provide that, before final setoff can occur, the State agency
2 servicing the debt must notify the debtor of the proposed setoff and of the debtor's right
3 to contest the setoff through an administrative hearing and judicial review. A proposed
4 setoff by a State agency that is a 'claimant agency' under Chapter 105A of the General
5 Statutes shall be conducted in accordance with the procedures the State agency must
6 follow under that Chapter. A proposed setoff by a State agency that is not a 'claimant
7 agency' under Chapter 105A of the General Statutes shall be conducted under Articles 3
8 and 4 of Chapter 150B of the General Statutes.

9 **"§ 147-86.26. Reporting requirements.**

10 A State agency shall provide the State Controller a complete report of the agency's
11 accounts receivable at least quarterly or more frequently as required by the State
12 Controller. The State Controller shall use the information provided by a State agency
13 and any additional information available to compile a summary report of the agency.
14 The State Controller shall provide copies of these summary reports annually to the
15 Governor, the Joint Legislative Commission on Governmental Operations, and each
16 State agency. Each summary report shall include the following:

- 17 (1) The type of accounts receivable owed to the State agency.
- 18 (2) An aging of the accounts receivable.
- 19 (3) Any attempted collection activity and any costs incurred in the
20 collection process.
- 21 (4) Any accounts receivable that have been written off.
- 22 (5) Information required by subdivisions (1) through (4) for the previous
23 three years.
- 24 (6) Identification of a State agency that is not complying with this Article
25 or Chapter 105A of the General Statutes.
- 26 (7) Any additional information the State Controller considers useful.

27 **"§ 147-86.27. Rules.**

28 A State agency may adopt rules to implement this Article."

29 Sec. 2. G.S. 143B-426.39 is amended by adding a new subdivision to read:

30 "(9a) Implement a statewide accounts receivable program in accordance
31 with Article 6B of Chapter 147 of the General Statutes."

32 Sec. 3. G.S. 96-4(t)(1) reads as rewritten:

- 33 "(1) Confidentiality of Information Contained in Records and Reports.
34 – (i) Except as hereinafter otherwise provided, it shall be unlawful
35 for any person to obtain, disclose, or use, or to authorize or permit
36 the use of any information which is obtained from any employing
37 unit or individual pursuant to the administration of this Chapter.
38 (ii) Any claimant or employer or their legal representatives shall
39 be supplied with information from the records of the Employment
40 Security Commission to the extent necessary for the proper
41 presentation of claims or defenses in any proceeding under this
42 Chapter. Notwithstanding any other provision of law, any
43 claimant may be supplied, subject to restrictions as the
44 Commission may by regulation prescribe, with any information

1 contained in his payment record or on his most recent monetary
2 determination, and any individual, as well as any interested
3 employer, may be supplied with information as to the individual's
4 potential benefit rights from claim records. (iii) Subject to
5 restrictions as the Commission may by regulation provide,
6 information from the records of the Employment Security
7 Commission may be made available to any agency or public
8 official for any purpose for which disclosure is required by statute
9 or regulation. (iv) The Commission may, in its sole discretion,
10 permit the use of information in its possession by public officials
11 in the performance of their public duties. (v) The Commission
12 shall release the payment and the amount of unemployment
13 compensation benefits upon receipt of a subpoena in a proceeding
14 involving child support. (vi) The Commission shall furnish to the
15 State Controller any information the State Controller needs to
16 prepare and publish a comprehensive annual financial report of
17 the ~~State~~ State or to track debtors of the State."

18 Sec. 4. G.S. 105A-3 is amended by adding a new subsection to read:

19 "(d) A claimant agency must register with the Department and report annually to
20 the Department the amount of debts owed to the agency for which the agency did not
21 submit a claim for setoff and the reason for not submitting the claim."

22 Sec. 5. G.S. 147-86.27, as enacted by Section 1 of this act, becomes effective
23 July 1, 1994. The remainder of this act becomes effective July 1, 1993. The interest
24 and penalties authorized by G.S. 147-86.23, as enacted by Section 1 of this act, apply to
25 debts incurred on or after July 1, 1993.