

## Legislature Creates New Mechanism For Local Governments To Recover Debts

A new law permits the State Comptroller to enter into intergovernmental agreements with units of local governments, school districts, and institutions of higher education (collectively "units of local government"), to enable units of local government to collect debts owed to them by individual debtors who the state or federal government owes money to. In other words, if a person owes a unit of local government money, and the state or the United States of America owes that person money, the state will pay that money directly to the unit of local government in satisfaction of the debt.

Passed as Public Act 97-632, and effective as of December 16, 2011, House Bill 384 creates a new mechanism by which units of local government can collect debt owed to them, regardless of the type of debt. One limitation in the program, however, is that units of local government are fifth (5th) in line for any debt owed to them. Before a unit of local government may receive payment via this mechanism, the debtor must not have any outstanding debts owed to the U.S. Treasury as federal income taxes, state child support agencies, other federal government agencies, nor the Illinois Treasury as state income taxes.

The Illinois Comptroller is responsible for managing this program on behalf of the state and federal treasuries pursuant to an intergovernmental agreement with the unit of local government. When the state owes a person money, and that person owes a local government money, the state comptroller shall notify that person of the state's intention to deduct all or a portion of the money owed to that person. That deduction shall be placed in the Comptroller Debt Recovery Trust Fund. The person who owes the local government money is then given sixty (60) days to protest the state's action and shall include in his or her protest the reason for contesting the deduction and any other information that will enable the Comptroller to determine the amount due and payable to the person. The intergovernmental agreement shall establish the procedures by which the Comptroller shall determine the validity of the protest and shall make a final disposition concerning the deduction. If the person does not protest the deduction within sixty (60) days, or the Comptroller makes a final decision in favor of the unit of local government following a protest, the Comptroller shall pay the deduction to the unit of local government. The Comptroller shall, however, withhold a \$15 service charge from its payment to the unit of local government to pay for the administration of the program.

If the payment from the state to the person was for wages, salary, or for contractual payment to an individual for personal services, the amount withheld shall not exceed 25% of the net amount of the payment. "Net amount" means

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the amount of the payment after any deductions to the payment required by law, such as taxes. The Comptroller also may not deduct from payments made pursuant to the Senior Citizens and Disabled Persons Property Tax Relief and Pharmaceutical Assistance Act, or from payments to institutions from the Illinois Prepaid Tuition Trust Fund.

The Comptroller's Office is currently working with the City of Chicago to develop a computer system that will notify the state when a person to whom the state owes money, also owes money to the City. The Comptroller's Office plans to begin reaching out to local municipalities in the "coming months" to expand the program.

Public Act 97-632 can be found at: <http://ilga.gov/legislation/publicacts/fulltext.asp?Name=097-0632&GA=97>



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