

House Bill 450

By: Representatives Sims of the 169th, Powell of the 29th, Pruett of the 144th, Rogers of the 26th, Stephens of the 164th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 7 of Chapter 7 of Title 48 of the Official Code of Georgia Annotated,
2 relating to setoff debt collection, so as to authorize a setoff of certain debts owed to public
3 housing authorities; to change certain provisions relating to definitions; to provide for
4 procedures, conditions, and limitations; to repeal conflicting laws; and for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

6 style="text-align:center">**SECTION 1.**

7 Article 7 of Chapter 7 of Title 48 of the Official Code of Georgia Annotated, relating to
8 setoff debt collection, is amended in Code Section 48-7-161, relating to definitions relative
9 to the setoff of debt collection, by revising paragraph (1) as follows:

10 "(1) 'Claimant agency' means and includes, in the order of priority set forth below:

11 (A) The Department of Human Services and the Department of Behavioral Health and
12 Developmental Disabilities with respect to collection of debts under Article 1 of
13 Chapter 11 of Title 19, Code Section 49-4-15, and Chapter 9 of Title 37;

14 (B) The Georgia Student Finance Authority with respect to the collection of debts
15 arising under Part 3 of Article 7 of Chapter 3 of Title 20;

16 (C) The Georgia Higher Education Assistance Corporation with respect to the
17 collection of debts arising under Part 2 of Article 7 of Chapter 3 of Title 20;

18 (D) The State Medical Education Board with respect to the collection of debts arising
19 under Part 6 of Article 7 of Chapter 3 of Title 20;

20 (E) The Department of Labor with respect to the collection of debts arising under Code
21 Sections 34-8-254 and 34-8-255 and Article 5 of Chapter 8 of Title 34, with the
22 exception of Code Sections 34-8-158 through 34-8-161; provided, however, that the
23 Department of Labor establishes that the debtor has been afforded required due process
24 rights by such Department of Labor with respect to the debt and all reasonable
25 collection efforts have been exhausted;

26 (F) The Department of Corrections with respect to probation fees arising under Code
 27 Section 42-8-34 and restitution or reparation ordered by a court as a part of the sentence
 28 imposed on a person convicted of a crime who is in the legal custody of the department;
 29 (G) The State Board of Pardons and Paroles with respect to restitution imposed on a
 30 person convicted of a crime and subject to the jurisdiction of the board; ~~and~~
 31 (H) The Department of Juvenile Justice with respect to restitution imposed on a
 32 juvenile for a delinquent act which would constitute a crime if committed by an adult;
 33 and
 34 (I) Public housing authorities with respect to the collection of debt related to occupying
 35 public housing; provided, however, that the public housing authority establishes that
 36 the debtor has been afforded required due process rights by the public housing authority
 37 with respect to the debt and all reasonable collection efforts have been exhausted. This
 38 subparagraph shall apply only to a debt owed by an occupant of public housing who has
 39 moved from the property."

40 SECTION 2.

41 Said article is further amended by adding a new Code section to read as follows:

42 "48-7-171.

43 (a) Except as otherwise provided in this Code section, all procedures and requirements of
 44 this article shall apply with respect to public housing authorities.

45 (b) Public housing authorities may submit for collection under the procedure established
 46 by this Code section all delinquent debts which they are owed.

47 (c) All public housing authorities, whenever possible, shall obtain the full name, social
 48 security number, address, and any other identifying information, required by regulations
 49 promulgated by the department for implementation of this Code section, from any person
 50 for whom the public housing authorities provide any service or transact any business and
 51 who the public housing authorities can foresee may become a debtor under the terms of this
 52 Code section.

53 (d) A debtor who protests the debt shall file a written protest with the claimant agency at
 54 the address provided in the public housing authority's notification of intention to set off.
 55 The protest must be filed within 30 days of the date of the notice of intention to set off and
 56 must contain the debtor's name, address, and tax identification number, identify the type
 57 of debt in dispute, and give a detailed statement of all the reasons that support the protest.
 58 The requirements of this subsection are jurisdictional.

59 (e) To recover costs incurred by the department pursuant to this subsection, an
 60 administrative fee, not to exceed \$25.00, shall be added to the debt by the public housing
 61 authority.

62 (f) Before submitting a debt to the department, the public housing authority shall appoint
63 a hearing officer to hear a protest of a debtor. This hearing officer is vested with the
64 authority to decide a protest in favor of either the debtor or the public housing authority.
65 The public housing authority shall certify to the department, on a form prescribed by the
66 department, that a hearing officer has been appointed and shall inform the department of
67 the name, address, and telephone number of the hearing officer. If this hearing officer is
68 unable to serve at any time, the public housing authority shall appoint another hearing
69 officer.

70 (g) Upon receipt of a notice of protest, the public housing authority shall notify the
71 department that a protest has been received and shall hold an informal hearing at which the
72 debtor may present evidence, documents, and testimony to dispute the debt. The public
73 housing authority shall notify the debtor of the date, time, and location of the informal
74 hearing. At the conclusion of the informal hearing the officer shall render his or her
75 determination. Upon receipt of a sworn certification from the hearing officer that he or she
76 held an informal hearing and ruled in favor of the public housing authority, the department
77 may proceed to collect the delinquent debt regardless of a subsequent appeal by the debtor.

78 (h) A debtor may seek relief from the hearing officer's determination by requesting, within
79 30 days of the determination, a contested case hearing before an administrative law judge.
80 A request for a hearing before an administrative law judge must be made in accordance
81 with the rules of said judges.

82 (i) If a portion of the delinquent debt is collected by the department and the determination
83 of the hearing officer in favor of the public housing authority is later reversed or the debtor
84 prevails in a claim for refund, the public housing authority shall refund the appropriate
85 amount to the taxpayer, including the appropriate amount of the fee. That portion of the
86 refund reflecting the department's fee must be paid from public housing authority funds.
87 If the public housing authority is found to be entitled to a portion of an amount collected
88 by set off, it is not required to refund the setoff fee retained by the department.

89 (j) If a refund is retained in error, the public housing authority shall pay to the taxpayer
90 interest calculated as provided in Code Section 48-2-35 from the date provided by law after
91 which interest is paid on refunds until the appeal is final.

92 (k) If the public housing authority determines that money has been erroneously or illegally
93 collected, the public housing authority, in its discretion, may issue a refund, even if the
94 debtor does not file a protest or file a claim for refund.

95 (l) A collection may not be contested more than one year after the date it was made. The
96 date of collection must be conclusively determined by the department. This provision shall
97 be construed as a statute of repose and not as a statute of limitation.

98 (m) A debtor may make a claim for refund of an amount collected pursuant to this Code
99 section within one year from the date the amount is collected, in the same manner as
100 seeking relief from a hearing officer's determination pursuant to this Code section.

101 (n) This Code section does not create a right to jury trial where one does not already exist.
102 When a debtor otherwise is entitled to have a jury determine the issue of indebtedness, that
103 right is preserved specifically. If a right to a jury trial already exists and the debtor wishes
104 to exercise that right, the debtor is not required to request a contested case hearing before
105 an administrative law judge but instead must file in the appropriate superior court and serve
106 the pleadings on the public housing authority within 30 days from the date of the hearing
107 officer's determination. The complaint must name the public housing authority as a
108 defendant and the allegations of the complaint must contest the debt and any potential
109 setoff.

110 (o) Public housing authorities shall indemnify the department against any injuries, actions,
111 liabilities, or proceedings arising from performance under the provisions of this Code
112 section."

113 **SECTION 3.**

114 All laws and parts of laws in conflict with this Act are repealed.