

The House Committee on Ways and Means offers the following substitute to HB 450:

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 **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 Georgia Board for Physician Workforce with respect to the collection of debts
19 arising 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. All public housing authorities shall send the information collected regarding
 53 debtors to the Georgia Association of Housing and Redevelopment Authorities. The
 54 Georgia Association of Housing and Redevelopment Authorities shall compile the data in
 55 a format to be specified by the department and forward the data to the department
 56 according to a schedule determined by the department.

57 (d) A debtor who protests the debt shall file a written protest with the claimant agency at
 58 the address provided in the public housing authority's notification of intention to set off.
 59 The protest must be filed within 30 days of the date of the notice of intention to set off and
 60 must contain the debtor's name, address, and tax identification number, identify the type

61 of debt in dispute, and give a detailed statement of all the reasons that support the protest.
62 The requirements of this subsection are jurisdictional.

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

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

75 (g) Upon receipt of a notice of protest, the public housing authority shall notify the
76 Georgia Association of Housing and Redevelopment Authorities that a protest has been
77 received and shall hold an informal hearing at which the debtor may present evidence,
78 documents, and testimony to dispute the debt. The public housing authority shall notify
79 the debtor of the date, time, and location of the informal hearing. At the conclusion of the
80 informal hearing the officer shall render his or her determination. Upon receipt of a sworn
81 certification from the hearing officer that he or she held an informal hearing and ruled in
82 favor of the public housing authority, the Georgia Association of Housing and
83 Redevelopment Authorities may proceed to collect the delinquent debt regardless of a
84 subsequent appeal by the debtor.

85 (h) A debtor may seek relief from the hearing officer's determination by requesting, within
86 30 days of the determination, a contested case hearing before an administrative law judge.
87 A request for a hearing before an administrative law judge must be made in accordance
88 with the rules of said judges.

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

- 96 (j) If a refund is retained in error, the public housing authority shall pay to the taxpayer
97 interest calculated as provided in Code Section 48-2-35 from the date provided by law after
98 which interest is paid on refunds until the appeal is final.
- 99 (k) If the public housing authority determines that money has been erroneously or illegally
100 collected, the public housing authority, in its discretion, may issue a refund, even if the
101 debtor does not file a protest or file a claim for refund.
- 102 (l) A collection may not be contested more than one year after the date it was made. The
103 date of collection must be conclusively determined by the department. This provision shall
104 be construed as a statute of repose and not as a statute of limitation.
- 105 (m) A debtor may make a claim for refund of an amount collected pursuant to this Code
106 section within one year from the date the amount is collected, in the same manner as
107 seeking relief from a hearing officer's determination pursuant to this Code section.
- 108 (n) This Code section does not create a right to jury trial where one does not already exist.
109 When a debtor otherwise is entitled to have a jury determine the issue of indebtedness, that
110 right is preserved specifically. If a right to a jury trial already exists and the debtor wishes
111 to exercise that right, the debtor is not required to request a contested case hearing before
112 an administrative law judge but instead must file in the appropriate superior court and serve
113 the pleadings on the public housing authority within 30 days from the date of the hearing
114 officer's determination. The complaint must name the public housing authority as a
115 defendant and the allegations of the complaint must contest the debt and any potential
116 setoff.
- 117 (o) Public housing authorities shall indemnify the department against any injuries, actions,
118 liabilities, or proceedings arising from performance under the provisions of this Code
119 section."

120 **SECTION 3.**

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