

[CORRECTED COPY]

CHAPTER 124

AN ACT providing for enhanced collection of certain debt owed to the State, amending N.J.S.2A:17-50, N.J.S.2A:17-52, N.J.S.2A:17-55 and N.J.S.2A:17-56 and P.L.1981, c.239 and supplementing Title 54 of the Revised Statutes.

**BE IT ENACTED** by the Senate and General Assembly of the State of New Jersey:

C.2A:16-11.1 Issuance of certificate of debt; definitions.

1. a. In addition to any other remedy provided by law, where a debt is owed to a State department or agency, and the person who owes the debt has failed to comply within 30 days after service of any notice, demand or order directing payment of any amount found to be due, the Department of the Treasury, on behalf of the department or agency, may issue a certificate of debt to the Clerk of the Superior Court stating that the person identified in the certificate of debt is indebted to the State in such amount as shall be stated in the certificate of debt.

b. The certificate of debt shall reference the statute, regulation or other legal authority under which the indebtedness arises. Thereupon the clerk to whom such certificate of debt shall have been issued shall immediately enter upon the record of docketed judgments the name of such person or entity as debtor; the State as creditor; the address of such person or entity, if shown in the certificate of debt; a reference to the statute, regulation or other legal authority under which the debt arises; and the date of making such entries.

c. The docketing of the certificate of debt shall have the same force and effect as a civil judgment docketed in the Superior Court subject to the procedures for appeal as set forth in section 4 of P.L. 2005, c. 124 (C.52:18-38). The docketing of the certificate of debt shall be without prejudice to the right of appeal to the Appellate Division of the Superior Court.

d. As used in this section and in sections 2, 3, 4, 5, 6, and 8 of P.L.2005, c.124 (C.52:18-36, C.52:18-37, C.52:18-38, C.52:14F-22, C.52:18-39 and C.52:14F-23):

"Debt" means a fee, fine, cost, penalty or assessment that has been due and owing a State department or agency for 120 days or more. "Debt" does not include inter-agency debts and debts associated with loans, notes, grants, and contracts.

e. As used in this amendatory and supplementary act, "State department or agency" does not include an independent authority or instrumentality that is independent of the operational and budgetary control of the department to which it is allocated.

C.52:18-36 Collection of debt.

2. The Department of the Treasury shall have all the remedies and may take all of the proceedings for the collection thereof which may be had or taken upon the recovery of a judgment in an action, but without prejudice to any right of appeal. Upon entry by the clerk of the certificate of debt in the record of docketed judgments in accordance with section 1 of P.L.2005, c.124 (C.2A:16-11.1), interest in the amount specified by the court rules for post-judgment interest shall accrue from the date of the docketing of the certificate of debt; however, payment of interest may be waived by the Treasurer or the Treasurer's designee.

C.52:18-37 Fee for unpaid debts.

3. In the event that the debt remains unpaid following the issuance of the certificate of debt and the State takes any further collection action, including referral of the matter to the Attorney General or the Attorney General's designee, the fee imposed, in lieu of the actual cost of collection, may be 20 percent of debts of \$1,000 or more. The Treasurer or his designee may establish a sliding scale, not to exceed a maximum amount of \$200, for debt principal amounts of less than \$1,000 at the time the certificate of debt is forwarded to the Superior Court for filing.

C.52:18-38 Written notification to debtor of issuance of certificate of debt.

4. a. The Treasurer shall provide written notification to the debtor of the proposed issuance of the certificate of debt pursuant to section 1 of P.L.2005, c.124 (C.2A:16-11.1) at least 30 days prior to the proposed issuance. Such notice shall be mailed to the debtor's last known address. The notice shall advise the debtor that, if the debtor wishes to contest the validity of the underlying debt that is the subject of the certificate of debt, he may appeal the determination

of underlying debt within 30 days of the mailing of the notice by filing an appeal with the State Treasurer.

b. Filing of such appeal shall stay the issuance of the certificate of debt pending determination by the Office of Administrative Law in accordance with section 5 of P.L.2005, c.124 (C.52:14F-22). Upon exhaustion and determination of such appeal in favor of the State, the stay shall be lifted and the certificate of debt issued.

C.52:14F-22 Appeals referred to Office of Administrative Law.

5. a. Appeals filed with the Treasurer pursuant to section 4 of P.L.2005, c.124 (C.52:18-38) shall be referred to the Office of Administrative Law for hearing, and shall be given priority by that office.

b. The Office of Administrative Law shall establish a system for expedited hearings of contested determinations of debt in accordance with the provisions of section 4 of P.L.2005, c.124 (C.52:18-38).

c. The Office of Administrative Law shall establish a system for expedited hearings of the State's applications for wage executions in accordance with the provisions of subsection b. of N.J.S. 2A:17-50.

d. Nothing herein shall preclude the Office of Administrative Law from joining the hearings of contested determinations of debt and the State's applications for wage executions in appropriate cases.

e. The provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) shall apply to hearings and appeals pursuant to P.L.2005, c.124 (C.2A:16-11.1 et al.).

C.52:18-39 Construction of act.

6. Nothing in this act shall be construed as depriving the State of any remedy for the enforcement of any State debt through any procedure or remedies provided in the law imposing such debt or in any other law, nor shall this act be construed as repealing or altering any such law or laws.

7. N.J.S.2A:17-50 is amended to read as follows:

Order to issue wage execution; application; jurisdiction.

2A:17-50. a. When a judgment has been recovered in the Superior Court, and where any wages, debts, earnings, salary, income from trust funds, or profits are due and owing to the judgment debtor, or thereafter become due and owing to him, to the amount of \$48.00 or more a week, the judgment creditor may, on notice to the judgment debtor unless the court otherwise orders, apply to the court in which the judgment was recovered, or to the court having jurisdiction of the same, and upon satisfactory proofs, by affidavit or otherwise, of such facts, the court shall grant an order directing that an execution issue against the wages, debts, earnings, salary, income from trust funds, or profits of the judgment debtor.

b. Notwithstanding the provisions of subsection a. or any other law to the contrary, when a wage execution application is filed by the State arising out of a determination by a State department or agency that a person owes the department or agency a debt as defined in section 1 of P.L.2005, c.124 (C.2A:16-11.1), such application may be filed with the Office of Administrative Law rather than with the Superior Court.

C.52:14F-23 Administrative Law Judge, power to hear application for a wage execution.

8. a. An Administrative Law Judge shall have the power to hear the State's application for a wage execution pursuant to subsection b. of N.J.S. 2A:17-50 and to issue an order directing that an execution issue against wages, earnings, salary, income from trust funds or profits of the person who owes the debt.

b. The State shall serve the person who owes the debt with a copy of the application for wage execution. Such notice shall be mailed to the person's last known address and shall advise the person that, if the person wishes to contest the application, he may request a hearing within 30 days by filing such request with the Office of Administrative Law and the State Treasurer.

c. Such applications shall be heard and decided by the Office of Administrative Law within 45 days of the date of the filing of the application by the State.

d. The provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) shall apply to hearings and appeals pursuant to this section.

e. An order of an Administrative Law Judge pursuant to this section shall be considered final agency action for the purposes of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) and shall be subject only to judicial review as provided in the Rules of Court.

9. N.J.S. 2A:17-52 is amended to read as follows:

Number of executions issued and levied at same time; priority.

2A:17-52. Number of executions issued and levied at same time.

a. Only one execution against the wages, debts, earnings, salary, income from trust funds or profits of such judgment debtor shall be satisfied at one time, and where more than one execution shall be issued pursuant to the provisions of this article against the same judgment debtor, they shall be satisfied in the order of priority in which such executions are presented to the person or persons from whom such wages, debts, earnings, salary, income from trust funds or profits are due and owing, irrespective of the fact that such executions shall be issued out of different courts; provided, however, that where more than one such execution shall be presented to any such person on the same day and one of such executions derives from a court order for suitable support and maintenance of a wife, child or children it shall be first satisfied, notwithstanding the prior presentation on the same day of any other such execution.

b. Notwithstanding subsection a., any wage execution applications filed by the State after the effective date of P.L.2005, c.124, including those arising out of a determination by a State department or agency that a person owes the department or agency a debt as defined in section 1 of P.L.2005, c.124 (C.2A:16-11.1), shall have priority over any other wage execution filed on or after the effective date of this act except as follows:

(1) the execution set forth in this subsection shall not have priority over any execution that derives from a court order for suitable support and maintenance of a wife, child or children;

(2) the execution set forth in this subsection shall not have priority over any execution otherwise required to have priority pursuant to any other law.

10. N.J.S.2A:17-55 is amended to read as follows:

Modification of execution.

2A:17-55. Either party may apply at any time to the court or, in the case of executions pursuant to subsection b. of N.J.S.2A:17-50, to an Administrative Law Judge from which an execution mentioned in N.J.S. 2A:17-50 shall issue, upon such notice to the other party as such court shall direct, for a modification of such execution. Upon the hearing, such court or Administrative Law Judge may make such modification of such execution as shall be deemed just. Such execution as so modified shall continue in full force and effect until fully paid and satisfied, or until further modified as herein provided.

11. N.J.S. 2A:17-56 is amended to read as follows:

Limitation on amount specified in execution.

2A:17-56. a. In no case shall the amount specified in an execution issued out of any court against the wages, debts, earnings, salary, income from trust funds or profits due and owing, or which may thereafter become due and owing to a judgment debtor, exceed 10%, unless the income of such debtor shall exceed 250 % of the poverty level for an individual taking into account the size of the individual's family, in which case the court out of which the execution shall issue may order a larger percentage.

b. Notwithstanding subsection a. or any other law to the contrary, for all wage execution applications filed by the State pursuant to subsection b. of N.J.S.2A:17-50 after the effective

date of P.L.2005, c.124 (C.2A:16-11.1 et al.), the State may seek a wage execution of up to 25% of the debtor's gross earnings, provided that after the execution the debtor's income will not be less than 250 % of the poverty level for an individual taking into account the size of the individual's family.

Nothing in this subsection shall be construed to violate any provision of federal law.

12. Section 1 of P.L.1981, c.239 (C.54A:9-8.1) is amended to read as follows:

C.54A:9-8.1 Setoff of indebtedness to State agencies; precedence of child support indebtedness.

1. a. Whenever any taxpayer or resident shall be entitled to any refund of taxes pursuant to the "New Jersey Gross Income Tax Act" (N.J.S.54A:1-1 et seq.), including an earned income tax credit provided as a refund pursuant to P.L.2000, c.80 (C.54A:4-6 et al.), or whenever any individual is eligible to receive a homestead rebate pursuant to P.L.1990, c.61 (C.54:4-8.57 et al.), P.L.1999, c.63 (C.54:4-8.58a et al.) or P.L.2004, c.40, and if the rebate is not required to be paid over to the municipal tax collector under the provisions of section 8 of P.L.1990, c.61 (C.54:4-8.64), and at the same time the taxpayer or resident shall be indebted to any agency or institution of State Government, to the Victims of Crime Compensation Board for the portion of an assessment ordered pursuant to N.J.S.2C:43-3.1 for deposit in the Victims of Crime Compensation Board Account or restitution ordered to be paid to the board pursuant to N.J.S.2C:44-2 for deposit in the Victims of Crime Compensation Board Account, or for child support under Title IV-A, Title IV-D, or Title IV-E of the federal Social Security Act (42 U.S.C. s.601 et seq.), or other indebtedness in accordance with section 1 of P.L.1995, c.290 (C.2A:17-56.11b) the Department of the Treasury shall apply or cause to be applied the refund, homestead rebate, or all, or so much of any or all as shall be necessary, to satisfy the indebtedness. Child support indebtedness shall take precedence over all other indebtedness. The Department of the Treasury shall retain a percentage of the proceeds of any collection setoff as shall be necessary to provide for any expenses of the collection effort.

b. A State department or agency which is owed a debt shall notify the Department of the Treasury of the existence of the debt and shall request that the Department of the Treasury execute a setoff as provided for in this section.

13. This act shall take effect immediately

Approved July 2, 2005.