



Sen. Ira I. Silverstein

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1 AMENDMENT TO SENATE BILL 1278

2 AMENDMENT NO. _____. Amend Senate Bill 1278 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The State Comptroller Act is amended by adding
5 Section 10.05e as follows:

6 (15 ILCS 405/10.05e new)

7 Sec. 10.05e. Deduction from refund for satisfaction of
8 debt.

9 (a) As used in this Section:

10 (1) "Debt" means any amount due and owing under a
11 judgment.

12 (2) "Debtor" means any person or legal entity who owes
13 money to another, if:

14 (A) the debt has been reduced to a judgment in this
15 State; and

16 (B) the judgment has not been:

1 (i) satisfied by court order;

2 (ii) set aside by court order; or

3 (iii) discharged in bankruptcy.

4 (3) "Refund" means a refund of overpaid income taxes
5 imposed by the State of Illinois.

6 (b) If a debtor owes a debt, the judgment creditor may, as
7 provided in this Section:

8 (1) have the Comptroller garnish an unpaid refund
9 payable to the debtor; and

10 (2) have the refund applied against the judgment debt.

11 (c) To obtain a garnishment under this Section, a judgment
12 creditor must obtain a garnishment order, under Part 7 of
13 Article XII of the Code of Civil Procedure, naming the
14 Comptroller as garnishee. The judgment creditor shall provide
15 the garnishment order to the Comptroller.

16 (d) The Comptroller shall deposit the amount available for
17 garnishment under the terms of the order with the judgment
18 attorney of record in the garnishment action, or, if the
19 judgment creditor is not represented by an attorney, with the
20 judgment creditor or the creditor's designee.

21 (e) If 2 or more garnishment orders are received by the
22 Comptroller for the same debtor, the Comptroller shall give
23 priority to the garnishment order that is received first by the
24 Comptroller. The Comptroller shall process each garnishment in
25 order of the date of receipt until the refund of the debtor has
26 been applied in its entirety.

1 (f) A judgment creditor must pay to the Comptroller a
2 processing fee of \$5 that is chargeable to the debtor for each
3 garnishment order under this Section provided to the
4 Comptroller. The judgment creditor must pay the fee at the time
5 the garnishment order is provided to the Comptroller.

6 (g) The Comptroller's liability to the plaintiff under a
7 garnishment order under this Section is limited to the amount
8 of the refund due to the debtor for the period the garnishment
9 order is in effect, less any setoff, counterclaim, or other
10 demand of the State against the debtor. After the Comptroller
11 has deposited the amount available under subsection (d) of this
12 Section, the Comptroller has no further liability in the matter
13 unless:

14 (1) a garnishment order is received by the Comptroller
15 for a subsequent tax year; or

16 (2) the amount deposited by the Comptroller under
17 subsection (d) of this Section is in question.

18 (h) The Comptroller shall adopt rules to implement this
19 Section.

20 Section 10. The Illinois Income Tax Act is amended by
21 changing Section 911.3 as follows:

22 (35 ILCS 5/911.3)

23 Sec. 911.3. Refunds withheld; order of honoring requests.

24 The Department shall honor refund withholding requests in the

1 following order:

2 (1) a refund withholding request to collect an unpaid
3 State tax;

4 (2) a refund withholding request to collect certified
5 past due child support amounts under Section 2505-650 of
6 the Department of Revenue Law of the Civil Administrative
7 Code of Illinois;

8 (3) a refund withholding request to collect any debt
9 owed to the State;

10 (4) a refund withholding request made by the Secretary
11 of the Treasury of the United States, or his or her
12 delegate, to collect any tax liability arising from Title
13 26 of the United States Code;

14 (4.5) a refund withholding request made by the
15 Secretary of the Treasury of the United States, or his or
16 her delegate, to collect any nontax debt owed to the United
17 States as authorized under subsection (i-1) of Section 10
18 of the Illinois State Collection Act of 1986;

19 (4.6) a refund withholding request to collect any debt
20 owed to a unit of local government, school district, or
21 public institution of higher education collected under an
22 intergovernmental agreement entered into under Sections
23 10.05 and 10.05d of the State Comptroller Act;

24 (5) a refund withholding request pursuant to Section
25 911.2 of this Act; ~~and~~

26 (6) a refund withholding request to collect certified

1 past due fees owed to the Clerk of the Circuit Court as
2 authorized under Section 2505-655 of the Department of
3 Revenue Law of the Civil Administrative Code of Illinois;
4 and -

5 (7) a garnishment order under Section 10.05e of the
6 State Comptroller Act.

7 (Source: P.A. 97-269, eff. 12-16-11 (see Section 15 of P.A.
8 97-632 for the effective date of changes made by P.A. 97-269);
9 97-632, eff. 12-16-11.)

10 Section 15. The Code of Civil Procedure is amended by
11 adding Section 12-703.5 as follows:

12 (735 ILCS 5/12-703.5 new)

13 Sec. 12-703.5. Garnishment of tax refunds. Notwithstanding
14 any other provision of this Part, if the garnishee is the
15 Comptroller under Section 10.05e of the State Comptroller Act,
16 the garnishment of any tax refund on behalf of a judgment
17 creditor under this Part shall be accomplished in accordance
18 with the rules adopted by the Comptroller.

19 Section 99. Effective date. This Act takes effect January
20 1, 2016."