

CHAPTER 25
COLLECTION OF DEBTS

Authority

N.J.S.A. 18A:71B-10, 18A:71C-10, 12, 14 and 16, 52:18A-30
and 52:27BB-10; 20 U.S.C. § 1095a; and 34 C.F.R.
§ 682.410(b)(10).

Source and Effective Date

R.2000 d.93, effective February 9, 2000.
See: 31 N.J.R. 3935(a), 32 N.J.R. 824(a).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1c, Chapter 25, Collection of
Debts, expires on August 8, 2005. See: 37 N.J.R. 738(a).

Chapter Historical Note

Chapter 25, Collection of Debts, was adopted as R.1984 d.219,
effective June 18, 1984. See: 16 N.J.R. 868(a), 16 N.J.R. 1625(a).

Pursuant to Executive Order No. 66(1978), Chapter 25, Collection of
Debts, was readopted as R.1989 d.330, effective May 26, 1989. See: 21
N.J.R. 887(a), 21 N.J.R. 1744(b). Pursuant to Executive Order No.
66(1978), Chapter 25 expired on May 26, 1994.

Chapter 25, Collection of Debts, was adopted as new rules by R.1995
d.170, effective March 20, 1995. See: 27 N.J.R. 309(b), 27 N.J.R.
1199(a).

Pursuant to Executive Order No. 66(1978), Chapter 25, Collection of
Debts, was readopted as R.2000 d.93, effective February 9, 2000. See:
Source and Effective Date. See, also, section annotations.

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**SUBCHAPTER 1. DEBTS OWED TO THE HESAA
BY PUBLIC AND PRIVATE SECTOR
EMPLOYEES**

17:25-1.1 Purpose

The purpose of this subchapter is to establish a policy and to provide a system whereby the Higher Education Student Assistance Authority (HESAA) in conjunction with the

Department of Treasury shall cooperate in identifying State, county, or municipal employees, and any officer or employee of a local board of education, a county or municipal board of health or an autonomous authority created by a county or municipality pursuant to statute, and any officer or employee of a public institution of higher education in this State, an independent institution of higher education in this State receiving State funds, any public authority established pursuant to State law or any officer or employee of a private sector employer within or outside this State, who are delinquent in payments to the HESAA on any note held or ineligible or overpaid financial aid pursuant to N.J.S.A. 18A:71B-10, 18A:71C-6, 10, 12, 14, 16 and 29. It is also the intent of this subchapter to establish procedures for deducting from the wages of such State, county, or municipal employees, and any officer or employee of a local board of education, a county or municipal board of health or an autonomous authority created by a county or municipality pursuant to statute, and any officer or employee of a public institution of higher education in this State, an independent institution of higher education in this State receiving State funds, any public authority established pursuant to State law or any officer or employee of a private sector employer within or outside this State, the sum of any such debt owed to the HESAA. The procedures contained in this subchapter afford the State, county, or municipal employee and any officer or employee of a local board of education, a county or municipal board of health or any autonomous authority created by a county or municipality pursuant to statute and any officer or employee of a public institution of higher education in this State, an independent institution of higher education in this State receiving State funds, any public authority established pursuant to State law or any officer or employee of a private sector employer within or outside this State, the opportunity to assert any legal rights he or she may have directly related to the deduction from the wages.

Amended by R.2000 d.93, effective March 6, 2000.
See: 31 N.J.R. 3935(a), 32 N.J.R. 824(a).
Rewrote the section.

17:25-1.2 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings:

“Administrative resolution” means resolving any contested debt due and owing the Higher Education Student Assistance Authority by the administrators of the Higher Education Student Assistance Authority.

“Authority” means the Higher Education Student Assistance Authority created pursuant to N.J.S.A. 18A:71A-1 et seq.

“Debt” means any liquidated sum due and owing the Authority which has accrued through any note held by the Authority pursuant to N.J.S.A. 18A:71C-6 or 18A:71C-29,

regardless of whether there is any outstanding judgment for that sum, and any overpayment or ineligible payment of any State award of financial aid pursuant to N.J.S.A. 18A:71B-10.

“Debtor” means any New Jersey State, county, or municipal employee or any officer or employee of a local board of education, a county or municipal board of health or an autonomous authority created by a county or municipality pursuant to statute and any officer or employee of a public institution of higher education in this State, an independent institution of higher education in this State receiving State funds, any public authority established pursuant to State law on the State, county, municipal, or school district payroll system(s) or any private sector officer or employee employed within or outside this State owing money to or having a note or obligation purchased by the Authority, which obligation has not been adjudicated satisfied by court order, set aside by court order, or discharged in bankruptcy. References to “the debtor” in this subchapter shall include all endorsers or co-signers on a loan, and any student owing any overpayment or ineligible payment of any State award of financial aid pursuant to N.J.S.A. 18A:71B-10.

“Department” means the New Jersey Department of Treasury.

“Disposable pay” means that part of the debtor’s compensation from an employer remaining after the deduction of any amounts required by law to be withheld (such as Social Security and Federal and State income taxes).

“Federal Family Education Loan Program” or “FFELP” means the collective term for the Stafford Loan Program (both interest subsidized and unsubsidized), the Supplemental Loan for Students or SLS Program, the Parent Loan for Dependent Students or PLUS Program, and the Consolidation Loan Program. The FFELP is a Federal State-private sector partnership. Financial institutions make FFELP loans with private capital, State-designated guaranty agencies such as the Authority provide first-line insurance (guarantees for the loans), and the Federal government, through the Federal Department of Education, provides subsidies for student borrowers along with backstop reinsurance and general program oversight and regulation.

“Financial officer” means the chief financial officer (or equivalent) of the appropriate county, municipal local unit, school district, public authority, public institution of higher education, independent institution of higher education, or private sector employer having authority over that employer’s payroll system(s).

“Net proceeds deducted” means gross proceeds deducted from a debtor’s payroll checks for non-FFELP debt minus any administrative fee charged by a State Department, local unit, or employer to provide for any expenses of the collection effort.

“Payroll check” means the wages received by New Jersey State, county or municipal employees, any officer or employee of a local board of education, a county or municipal board of health or an autonomous authority created by a county or municipality pursuant to statute and any officer or employee of a public institution of higher education in this State, an independent institution of higher education in this State receiving State funds, any public authority established pursuant to State law or any officer or employee of a private sector employer within or outside this State paid by the respective employer payroll in return for services provided to the employee’s or officer’s respective employer.

“Proceeds deducted” means proceeds deducted from a debtor’s payroll checks by a State Department, local unit, or employer.

Amended by R.2000 d.93, effective March 6, 2000.

See: 31 N.J.R. 3935(a), 32 N.J.R. 824(a).

Rewrote the section.

17:25-1.3 Procedure for verification of employment

For employees of employers within or outside this State, whether public sector or private sector, the Authority shall use information exchanges with the State Department of Labor, Authority borrower or other student assistance records, and other sources to verify the employment of the debtor.

Amended by R.2000 d.93, effective March 6, 2000.

See: 31 N.J.R. 3935(a), 32 N.J.R. 824(a).

Rewrote the section.

17:25-1.4 Amount of deduction from wages

(a) Unless the debtor provides the Authority with written consent to deduct a greater amount, the amount deducted from any debtor’s payroll check shall be the lesser of the following amounts in each pay period:

1. The amount of money permitted by use of the formula set forth at 15 U.S.C. § 1673 of the Consumer Credit Protection Act; or
2. Ten percent of the debtor’s disposable pay for the particular pay period from which the deduction is made.

17:25-1.5 Notice to debtor

(a) Within 10 days after the notification to the Authority that the employee or officer is receiving wages from the employer, and at least 30 days before the initiation of the proposed deduction, the Authority shall mail to the debtor’s last known address a written notice of the nature and the amount of the debt, the intention of the Authority to initiate the proposed deduction, and an explanation of the debtor’s rights.

(b) The Authority shall offer the debtor an opportunity to inspect and copy Authority records related to the debt. Upon receiving a request for an inspection, the Authority shall schedule an inspection, at which time the debtor may order copies of requested records for the fee of \$10.00.

(c) The Authority shall offer the debtor an opportunity to enter into a written repayment agreement with the Authority under terms agreeable to the Authority.

(d) The Authority shall also advise debtors of the right to request a hearing if they are contesting the amount or existence of the alleged debt, or the terms of their repayment schedule. Requests for a hearing shall be made to the Authority, in writing, on or before the 15th day following the debtor's receipt of the notice described in this section. A debtor shall be considered to have received the notice described in this section five days after it was mailed by the Authority. A request for a hearing shall include a full explanation of the facts justifying said request. Only timely hearing requests, those received by the Authority within 15 days of the date the notice is received, will delay or cancel the initiation of the proposed deduction. The Authority shall not delay the institution of the proposed deduction unless the Authority determines that the delay in filing the request was caused by factors over which the debtor has no control, or the Authority received information that the Authority believes justifies a delay or cancellation of the initiation of the proposed deduction. The Authority will take into consideration such factors as illness, disability and parental leave.

(e) If the debt is a defaulted Federal Family Education Loan Program loan, the Authority may not deduct from the wages of a debtor whom it knows has been involuntarily separated from employment until the debtor has been reemployed continuously for at least 12 months.

Amended by R.2000 d.93, effective March 6, 2000.
See: 31 N.J.R. 3935(a), 32 N.J.R. 824(a).

In (a), substituted a reference to employers for a reference to State, county, municipal and school district payroll systems; and in (b), added "If the debt is a defaulted Federal Family Education Loan Program loan," at the beginning.

17:25-1.6 Authority procedure; administrative resolution; hearing

(a) When a debtor makes a timely written request for a hearing on the existence or amount of the debt or the terms of the repayment schedule, the Authority shall schedule an administrative resolution with the debtor, which, at the debtor's option, may be in person or by telephone, in an effort to agree upon the sum asserted as due and owing and any other relevant matters.

(b) Pending the administrative resolution of the debt asserted by the Authority, no action shall be taken in furtherance of collection of that debt through the deduction procedure established by this subchapter.

17:25-1.7 Referral to the Office of Administrative Law; hearing

If administrative resolution efforts in a contested case are unsuccessful, the matter shall be filed forthwith with the clerk of the Office of Administrative Law pursuant to the requirements of the Administrative Procedures Act, N.J.S.A. 52:14B-1 et seq. as amended and supplemented and the New Jersey Uniform Administrative Procedure Rules, N.J.A.C. 1:1. The Administrative Law Judge shall issue a final written decision at the earliest practicable date, but not later than 60 days after the Authority's receipt of the debtor's hearing request.

17:25-1.8 Authority withholding order

(a) Within 20 days after the debtor fails to make a timely request for a hearing or, if a timely request for a hearing is made by a debtor, within 20 days after the administrative resolution to proceed with the proposed deduction or within 20 days after the final decision in a contested case is made by the Administrative Law Judge to proceed with the proposed deduction, the Authority shall promptly issue a withholding order to the Department, financial officer, or employer to begin deductions for the repayment of the debt from the debtor's payroll check.

(b) Upon receipt by the Department, financial officer, or employer of a withholding order from the Authority, the Department, financial officer, or employer shall make the deduction(s) beginning with the first pay period that occurs after the issuance of a withholding order and transfer the proceeds deducted or, in the case of non-FFELP debt, the net proceeds deducted for payment to the Authority.

(c) The Authority shall notify the Department, financial officer, or employer of any adjustments to be made in the amount of the debt or, if appropriate, inform the Department, financial officer, or employer to stop the deductions.

Amended by R.2000 d.93, effective March 6, 2000.
See: 31 N.J.R. 3935(a), 32 N.J.R. 824(a).

Inserted references to employers throughout; and in (b), substituted a reference to proceeds for a reference to net proceeds, and inserted "or, in the case of non-FFELP debt, the net proceeds deducted" following "deducted".

17:25-1.9 Disposition of proceeds collected; administrative fees for non-FFELP debt

(a) Upon effecting deductions, the Department, financial officer, or employer shall transfer to the Authority the proceeds deducted or, in the case of non-FFELP debt, the net proceeds deducted on its behalf.

(b) From the gross proceeds deducted by the Department, financial officer, or employer through deductions for non-FFELP debt, the Department, local unit, school district, or employer shall retain one percent, which amount shall be charged to the Authority as an administrative fee. No administrative fee may be retained for deductions for FFELP debt.

Amended by R.2000 d.93, effective March 6, 2000.
See: 31 N.J.R. 3935(a), 32 N.J.R. 824(a).
Rewrote the section.

17:25-1.10 Accounting to the Authority; credit to debtor's obligation

(a) Simultaneously with the transmittal of the proceeds deducted or, in the case of non-FFELP debt, the net proceeds deducted to the Authority, the Department, financial officer, or employer shall provide the Authority with an accounting of the deductions for which payment is being made.

(b) The accounting shall include:

1. The full names of the debtors;
2. The gross proceeds deducted per individual;
3. The net proceeds deducted per individual if an administrative fee is charged pursuant to N.J.A.C. 17:25-1.9(b); and
4. The administrative fee charged per individual for non-FFELP debt pursuant to N.J.A.C. 17:25-1.9(b).

(c) Upon receipt by the Authority of the proceeds deducted or, in the case of non-FFELP debt, the net proceeds deducted on the Authority's behalf by the Department, financial officer, or employer and an account of the proceeds as specified under this section, the Authority shall credit the debtor's obligation with the proceeds received.

Amended by R.2000 d.93, effective March 6, 2000.
See: 31 N.J.R. 3935(a), 32 N.J.R. 824(a).
Rewrote the section.

17:25-1.11 Employer prohibitions for private sector employers

An employer may not discharge from employment, refuse to employ, or take disciplinary action against an individual subject to wage deduction in accordance with this chapter by reason of the fact that the individual's wages have been subject to wage deduction under this chapter, and the individual may sue in a State court of competent jurisdiction any employer who takes this action. The court shall award attorneys' fees to a prevailing employee and, in its discretion, may order reinstatement of the individual, award punitive damages and back pay to the employee, or order another remedy as may be reasonably necessary.

New Rule, R.2000 d.93, effective March 6, 2000.
See: 31 N.J.R. 3935(a), 32 N.J.R. 824(a).

17:25-1.12 Authority enforcement of this chapter

The Authority shall have the power to take legal action against any employer that fails to comply with the provisions of this chapter.

New Rule, R.2000 d.93, effective March 6, 2000.
See: 31 N.J.R. 3935(a), 32 N.J.R. 824(a).