

CHAPTER 25

COLLECTION OF DEBTS

Authority

N.J.S.A. 18A:72-23, 24, 25.1-25.6; N.J.S.A. 52:18A-30 and 52:27BB-10; 20 U.S.C. 1095(a), and 34 C.F.R. 682.410(b)(10).

Source and Effective Date

R.1995 d.170, effective March 20, 1995.
See: 27 N.J.R. 309(b), 27 N.J.R. 1199(a).

Executive Order No. 66 (1978) Expiration Date

Chapter 25, Collection of Debts, expires on March 19, 2000.

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). Amendments were adopted as R.1989 d.2, effective January 3, 1989. See: 200 N.J.R. 2537(b), 21 N.J.R. 30(a). Pursuant to Executive Order No. 66(1978), Chapter 25 was readopted as R.1989 d.330, effective May 26, 1989. See: 21 N.J.R. 887(a), 21 N.J.R. 1744(b). Amendments were adopted as R.1992 d.61, effective February 3, 1992. See: 23 N.J.R. 2226(a), 24 N.J.R. 472(a).

Pursuant to Executive Order No. 66(1978), Chapter 25 expired on May 26, 1994. The expired rules were removed from Title 17 by Supplement 8-15-94.

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SUBCHAPTER 1. DEBTS OWED TO THE NJHEAA BY 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 RUTGERS, THE STATE UNIVERSITY, THE UNIVERSITY OF MEDICINE AND DENTISTRY OF NEW JERSEY, AND NEW JERSEY INSTITUTE OF TECHNOLOGY OR ANY PUBLIC AUTHORITY ESTABLISHED PURSUANT TO STATE LAW

17:25-1.1 Purpose

The purpose of this subchapter is to establish a policy and to provide a system whereby the New Jersey Higher Education Assistance Authority (NJHEAA) 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 Rutgers the State University, the University of Medicine and Dentistry of New Jersey, the New Jersey Institute of Technology or any public authority established pursuant to State law who are delinquent in payments to the NJHEAA on any note held pursuant to N.J.S.A. 18A:72-16, 18A:72-23, 18A:72-25.1, 18A:72-25.2, 18A:72-25.3, 18A:72-25.4 and 18A:72-25.5. 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 Rutgers the State University, the University of Medicine and Dentistry of New Jersey, and New Jersey Institute of Technology or any public authority established pursuant to State law the sum of any such debt owed to the NJHEAA. 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 Rutgers the State University, the University of Medicine and Dentistry of New Jersey, the New Jersey Institute of Technology or any public authority established pursuant to State law the opportunity to assert any legal rights he or she may have directly related to the deduction from the wages.

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 New Jersey Higher Education Assistance Authority by the administrators of the New Jersey Higher Education Assistance Authority.

“Authority” means the New Jersey Higher Education Assistance Authority created pursuant to N.J.S.A. 18A:72-1 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:72-16, regardless of whether there is any outstanding judgment for that sum.

“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 Rutgers the State University, the University of Medicine and Dentistry of New Jersey, the New Jersey Institute of Technology or any public authority established pursuant to State law on the State, county, municipal, or school district payroll system(s) 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.

“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).

“Financial officer” means the chief financial officer (or equivalent) of the appropriate county, municipal local unit or school district having authority over the county, municipal or school district payroll system(s).

“Net proceeds deducted” means gross proceeds deducted from a debtor’s State, county, municipal or school district payroll checks minus any collection fee charged by the Department or local unit 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 Rutgers the State University, the University of Medicine and Dentistry of New Jersey, the New Jersey Institute of Technology or any public authority established pursuant to State law paid by the State, county, municipal or school district payroll in return for services provided to the employee’s or officer’s respective State, county, municipal or school district agency, department, office or the entity using the State, county, municipal or school district payroll system by which the employee or officer is employed.

17:25-1.3 Procedure for verification of employment

(a) For State employees, the Authority shall notify the Department in writing and supply the Department with a list of persons currently in default on notes held by the Authority. The Department shall notify the Authority of those persons currently in default on notes held by the Authority who are currently receiving wages as New Jersey State employees or officers.

(b) For county and municipal employees, 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 Rutgers the State University, the University of Medicine and Dentistry of New Jersey, the New Jersey Institute of Technology or any public authority established pursuant to State law, the Authority shall notify the financial officer in writing and supply the financial officer with a list of persons currently in default on notes held by the Authority. The financial officer shall notify the Authority of those persons currently in default on notes held by the Authority who are currently receiving wages as county or municipal employees 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, or as officers or employees of Rutgers the State University, the University of Medicine and Dentistry of New Jersey, the New Jersey Institute of Technology or any public authority established pursuant to State law.

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 State, county, municipal or school district payroll system, 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 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) 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.

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 or financial officer to begin deductions for the repayment of the debt from the debtor's payroll check.

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

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

17:25-1.9 Disposition of proceeds collected; administrative fees

(a) Upon effecting deductions, the Department or financial officer shall transfer to the Authority, the net proceeds deducted on its behalf.

(b) From the gross proceeds deducted by the Department or financial officer through deductions, the Department, local unit or school district shall retain one percent, which amount shall be charged to the Authority as an administrative fee.

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

(a) Simultaneously with the transmittal of the net proceeds deducted to the Authority, the Department or financial officer 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; and
4. The administrative fee charged per individual.

(c) Upon receipt by the Authority of the net proceeds deducted on the Authority's behalf by the Department or financial officer and an account of the proceeds as specified under this section, the Authority shall credit the debtor's obligation with the gross proceeds deducted.