

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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SENATE BILL 1118

Short Title: Debt Payment Agent Tax/Changes.

(Public)

Sponsors: Senators Daniel; Sands, Seymour, Hunt, Soles, Staton, Speed, Plexico, Allran, Carpenter, Smith, Lee, Hyde, and Conder.

Referred to: Finance.

June 2, 1992

A BILL TO BE ENTITLED

AN ACT TO IMPOSE A PRIVILEGE LICENSE TAX ON DEBT PAYMENT AGENTS AND TO REPEAL OBSOLETE PROVISIONS CONCERNING THESE AGENTS.

The General Assembly of North Carolina enacts:

Section 1. Article 2 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"§ 105-102.7. Debt payment agents.

(a) Definition. – The term 'debt payment agent' has the same meaning as in G.S. 75-36.

(b) Tax. – A person engaged in business as a debt payment agent must obtain a license from the Secretary and pay for the license an annual tax and a periodic tax. The annual tax is one hundred dollars (\$100.00) and is payable in accordance with G.S. 105-33. The periodic tax is fifty dollars (\$50.00) for each one million dollars (\$1,000,000), or fraction of this amount, received by the debt payment agent from debtors for distribution to creditors or as compensation to the debt payment agent. The periodic tax is payable quarterly.

To pay the periodic tax, a debt payment agent must file a quarterly return with the Secretary on a form provided by the Secretary. The return must be filed within 20 days after the end of each calendar quarter. The return must state the amount received from debtors during the quarter covered by the return and must contain any other information required by the Secretary. The periodic tax is due when a return is due."

Sec. 2. G.S. 105-109.1 reads as rewritten:

1 **"§ 105-109.1. Interest.**

2 The taxes on gross receipts levied in G.S. 105-37.1(a), 105-38(f), and 105-
3 65.1(b)(2), the tax on installment paper dealers levied in G.S. 105-83(b), ~~and~~ the tax on
4 producers of newsprint publications levied in G.S. 105-102.6, and the periodic tax on
5 debt payment agents levied in G.S. 105-102.7 shall bear interest at the rate established
6 under G.S. 105-241.1(i) from the time the taxes were due until the taxes are paid."

7 Sec. 3. Article 1 of Chapter 75 of the General Statutes is amended by adding
8 a new section to read:

9 **"§ 75-36. Disclosures required of debt payment agents.**

10 (a) Definition. – A 'debt payment agent' is a person who, for a consideration,
11 regularly contracts with or offers to contract with a debtor to act as the debtor's agent in
12 paying in full specified debts of the debtor by receiving periodic payments from the
13 debtor and disbursing the payments among the creditors to whom the debts are owed.
14 The term, however, does not include any of the following:

- 15 (1) A person who arranges or makes a loan to a debtor and who disburses
16 part or all of the loan proceeds among creditors of the debtor.
17 (2) A person who does not claim to be in the business of acting as a debt
18 payment agent and who, without compensation or as an incident of
19 another business, receives a payment from a debtor and disburses the
20 payment to one or more creditors of the debtor.

21 (b) Disclosures. – A contract between a debt payment agent and a debtor must be
22 in writing and must state all of the following in easily understood language:

- 23 (1) The duration of the contract.
24 (2) The amount of each payment the debtor is to make to the debt payment
25 agent.
26 (3) Each creditor of the debtor that the debt payment agent will pay.
27 (4) The fees payable by the debtor to the debt payment agent.
28 (5) Any penalty or other charge the debtor must pay if the debtor fails to
29 make the payments required by the contract or pays an amount due
30 under the contract before it is due."

31 Sec. 4. Article 56 of Chapter 14 of the General Statutes is repealed.

32 Sec. 5. This act becomes effective July 1, 1992. The first periodic report a
33 debt payment agent must file under G.S. 105-102.7, as enacted by this act, is due on or
34 before October 20, 1992, and covers the quarter that begins on July 1, 1992.