

ADMINISTRATIVE OFFICE OF THE COURTS
STATE OF NEW JERSEY

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January 22, 2010

Andrew

To: Assignment Judges

From: David P. Anderson, Jr.

Subject: P.L. 2009, c.233 (A-2178) - Authorizes Administrative Director of the Courts to contract for private collection services to collect court-ordered obligations; Permits surcharge of up to 22% of amount collected

On January 16, 2010, Acting Governor Sweeney signed A-2178 into law as P.L. 2009, c.233. The new law took effect on January 16, 2010. Attached is a copy of the law for your information.

The new law authorizes the Administrative Director of the Courts to contract with private collection agencies or firms to collect outstanding monies payable to the Superior Court, the Tax Court, or the municipal courts as an alternative to, or in addition to, the use of the comprehensive enforcement program. The law permits the Administrative Director of the Courts to authorize the assessment of an administrative fee, not to exceed 22% of the amount collected, to be paid by the defendant to the private collection agency to pay for the costs of collection. The law provides that the use of private collection agencies shall be governed by rules and procedures adopted by the Supreme Court.

In addition, the law authorizes the governing body of a county having a central municipal court, or the governing body of a municipality, to enter into a contract with a private agency or firm for the purpose of collecting delinquent fees, fines, costs, surcharges, and other penalties or assessments imposed, after a final determination of guilt, by a central municipal court or a municipal court. Under the law, the governing body may authorize the assessment of a fee by a private agency or firm not to exceed 22% of the amount collected to be paid by the debtor to the private agency or firm to pay for the costs of collection. The law provides that, with regard to fines, costs, surcharges and other assessments imposed by a municipal court, a governing body may proceed only when the court has exhausted all enforcement remedies and has relinquished jurisdiction of the enforcement of the penalties. Furthermore, the law clarifies that the use of private agencies or firms by the governing body of a county or municipality to collect outstanding obligations imposed by a central municipal court or a municipal court must be in accordance with the rules or procedures adopted by the Supreme Court.

Kindly advise your trial court judges, municipal court judges, and appropriate staff of this new law. Please contact Debra Jenkins, Assistant Director, AOC Municipal Division at 609-984-8241, or Kevin Brown, Assistant Director, AOC Probation Division at 609-292-1589, if you have any questions regarding Chapter 233.

attachment

c: Glenn A. Grant, J.A.D.

Municipal Division Presiding Judges

Directors

Assistant Directors

Clerks of the Court

Trial Court Administrators

Municipal Division Managers

Municipal Court Directors and Administrators

Chief Probation Officers

P.L. 2009, c.233
Approved January 16, 2010

[Third Reprint]
ASSEMBLY, No. 2178
STATE OF NEW JERSEY
213th LEGISLATURE

INTRODUCED FEBRUARY 25, 2008

Sponsored by:

Assemblywoman NELLIE POU
District 35 (Bergen and Passaic)
Assemblyman NEIL M. COHEN
District 20 (Union)
Assemblyman JERRY GREEN
District 22 (Middlesex, Somerset and Union)

Co-Sponsored by: Assemblyman Schaer and Senator Sarlo

SYNOPSIS

Permits surcharge of up to 22% to offset private collection fees for certain delinquent debts owed to courts, counties, and municipalities.

CURRENT VERSION OF TEXT

As amended by the Senate on December 10, 2009.

AN ACT concerning private contracts for the collection of certain debts owed to the government and amending P.L.1995, c.9, P.L.2000, c.126, P.L.1983, c.208, and N.J.S.40A:4-39.

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

1. Section 6 of P.L.1995, c.9 (C.2B:19-6) is amended to read as follows:

6. a. All matters involving the collection of moneys in the Superior Court and Tax Court which have not been resolved in accordance with an order of the court may be transferred, pursuant to court rule, to the comprehensive enforcement program for such action as may be appropriate. ¹As an alternative to, or in addition to, the use of the comprehensive enforcement program, the Administrative Director of the Courts may contract with a private agency or firm to collect any outstanding monies payable to the ²[superior] Superior² Court, the Tax ²[court] Court², or the municipal courts. ²² The use of private collection agencies to collect outstanding monies payable to the Superior Court, the Tax Court and municipal courts shall be governed by rules and procedures adopted by the Supreme Court. The Administrative Director of the Courts may authorize the assessment of and administrative fee by a private agency or firm not to exceed ³[25%] 22%³ of the amount collected to be paid by the defendant to the private collection agency to pay for the costs of collection.¹

b. (1) A municipal court may request that all matters which have not been resolved in accordance with an order of that court be transferred to the comprehensive enforcement program in accordance with the provisions of section 9 of P.L.1995, c.9 (C.2B:19-9) for such action as may be appropriate. All moneys collected through the comprehensive enforcement program which result from the enforcing of orders transferred from any municipal court shall be subject to the 25% deduction authorized pursuant to section 4 of ²[this act] P.L.1995, c.9 (C.2B:19-4)² except for moneys collected in connection with the enforcement of orders related to parking violations.

(2) ¹[Nothing contained in this act shall prevent any municipal court or the comprehensive enforcement program of the State from contracting the services of a private collection agency to collect any moneys which have not been remitted in accordance with an order of that court. The municipal courts and the comprehensive enforcement program are authorized to add a fee onto outstanding fines, fees, costs, surcharges, and other penalties of up to 25% to pay the cost of the private collection agency.] (Deleted by amendment, P.L. , c.) (pending before the Legislature as this bill)¹

c. The Director of the Division of Motor Vehicles may refer matters of surcharges imposed administratively under the New Jersey Merit Rating Plan in accordance with the provisions of section 6 of P.L.1983, c.65 (C.17:29A-35) which have not been satisfied to the comprehensive enforcement program in accordance with the procedures established pursuant to section 4 of P.L.1997, c.280 (C.2B:19-10) to be reduced to judgment and for such additional action as may be appropriate. All moneys collected through the comprehensive enforcement program which result from the collection of these surcharge moneys shall be subject to the 25% deduction authorized pursuant to section 4 of P.L.1995, c.9 (C.2B:19-4).

d. (1) At the request of the Public Defender, the Clerk of the Superior Court shall refer every unsatisfied lien, filed by the Public Defender, to the comprehensive enforcement program for collection. All moneys collected through the comprehensive enforcement program which result from the collection of these liens shall be subject to the deduction authorized pursuant to section 4 of P.L.1995, c.9 (C.2B:19-4).

(2) Upon satisfaction of a public defender lien through the comprehensive enforcement program, the comprehensive enforcement program shall notify the Clerk of the Superior Court within 10 days of satisfaction and the satisfaction of the lien shall be entered in the Superior Court Judgment Index.

(cf: P.L.2001, c.421, s.2)

²[2. Section 37 of P.L.2000, c.126 (C.40:23-6.53) is amended to read as follows:

37. The governing body of any county may enter into a contract with a private agency or firm for the purpose of collecting any delinquent ¹taxes,¹ fees ¹[or],¹ fines¹, costs, surcharges and other penalties or assessments that are¹ owed to the county ¹or imposed by a municipal court¹. ¹With regard to fines, costs, surcharges and other assessments imposed by a municipal court, the governing body may proceed only when the court has exhausted all enforcement remedies and has relinquished jurisdiction of the enforcement of the penalties. The use of private agencies or firms to collect penalties imposed by a court shall be in accordance with rules or procedures adopted by the Supreme Court.¹ Any such contract shall be made pursuant to the provisions of the "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.). The governing body of any county ¹[is authorized to add a fee to any outstanding amount mentioned above of up to 25% of the delinquency to pay the cost of the private agency or firm performing the] may authorize the assessment of a fee by a private agency or firm not to exceed 25% of the amount collected to be paid by the debtor to the private agency or firm to pay for the costs of¹ collection.

(cf: P.L.2000, c.126, s.37)]²

²2. Section 37 of P.L.2000, c.126 (C.40:23-6.53) is amended to read as follows:

37. The governing body of any county may enter into a contract with a private agency or firm for the purpose of collecting [any] delinquent fees [or], fines [owed to the county], costs, surcharges, and other penalties or assessments imposed, after a final determination of guilt, by a central municipal court established pursuant to subsection e. of N.J.S.2B:12-1. The use of private agencies or firms to collect delinquent fees, fines, costs, surcharges and other penalties or assessments imposed by a central municipal court shall be in accordance with rules or procedures adopted by the Supreme Court. Any such contract shall be made pursuant to the provisions of the "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.). The governing body of any county may authorize the assessment of a fee by a private agency or firm not to exceed ³[25%] 22%³ of the amount collected to be paid by the debtor to the private agency or firm to pay for the costs of collection.²

(cf: P.L.2000, c.126, s.37)

²[3. Section 1 of P.L.1983, c.208 (C.40:48-5a) is amended to read as follows:

1. The governing body of any municipality may enter into contract with a private agency or firm for the purpose of collecting delinquent ¹taxes, fees,¹ fines, costs, surcharges and other penalties ¹or assessments¹ that are owed ¹[to or required to be collected by]¹ the municipality ¹[as a result of any municipal court matter, including, but not limited to parking violation fines and motor vehicle violation fines] or imposed by a municipal court¹. ¹With regard to fines, costs, surcharges or other assessments imposed by a municipal court, the governing body may proceed only when the court has exhausted all enforcement remedies and has relinquished jurisdiction of the enforcement of the penalties. The use of private agencies or firms to collect penalties imposed by a court shall be in accordance with rules or procedures adopted by the Supreme Court.¹ Any such contract shall be made and awarded pursuant to the provisions of the "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.). The governing body of any municipality [is authorized to add a fee to any outstanding amount mentioned above of up to 25% of the delinquency to pay the cost of the private agency or firm performing the] ¹may authorize the assessment of a fee by a private agency or firm not to exceed 25% of the amount collected to be paid by the debtor to the private agency or firm to pay for the costs of¹ collection. (cf: P.L.1997, c.212, s.1)]²

²3. Section 1 of P.L.1983, c.208 (C.40:48-5a) is amended to read as follows:

1. The governing body of any municipality may enter into contract with a private agency or firm for the purpose of collecting delinquent fees, fines, costs, surcharges and other penalties [that are owed to or required to be collected by the municipality as a result of any municipal court matter, including, but not limited to parking violation fines and motor vehicle violation fines] or assessments imposed, after a final determination of guilt, by a municipal court. The governing body of any municipality may proceed only when the court has exhausted all judicial enforcement remedies permitted by law or court rule and the Administrative Director of the Courts has authorized collection through a private agency or firm. The use of private agencies or firms to collect delinquent fees, fines, costs, surcharges, and other penalties or assessments imposed by a municipal court shall be in accordance with rules or procedures adopted by the Supreme Court. Any such contract shall be made and awarded pursuant to the provisions of the "Local Public Contracts Law," P.L.1971, c. 198 (C.40A:11-1 et seq.). The governing body of any municipality may authorize the assessment of a fee by a private agency or firm not to exceed ³[25%] 22%³ of the amount collected to be paid by the debtor to the private agency or firm to pay for the costs of collection.²

(cf: P.L.1997, c.212, s.1)

4. N.J.S.40A:4-39 is amended to read as follows:

40A:4-39. a. In the budget of any local unit, dedicated revenues anticipated during the fiscal year from any dog tax, dog license, revenues collected pursuant to N.J.S.18A:39-1.2, solid fuel license, sinking fund for term bonds, bequest, escheat, federal grant, motor vehicle fine dedicated to road repairs, relocation costs deposited into a revolving relocation assistance fund established pursuant to section 2 of P.L.1987, c.98 (C.20:4-4.1a), fee revenues collected in connection with recreation programs operated pursuant to section 2 of P.L.1999, c.292 (C.40:48-2.56), receipts from franchise assessments levied pursuant to section 4 of P.L.1995, c.173 (C.40A:12A-53) to be retained by the municipality, refund payments from a joint insurance fund deposited into a joint insurance revolving fund established pursuant to section 12 of P.L.1996, c.113 (C.40A:10-36.2), fee revenues imposed on delinquent amounts owed to the county or municipality and collected pursuant to section 37 of P.L.2000, c.126 (C.40:23-6.53) (as amended by section 2 of this bill)² [and] or² section 1 of P.L.1983, c.208 (C.40:48-5a) (as amended by section 3 of this bill), and, subject to the prior written consent of the director, other items of like character when the revenue is not subject to reasonably accurate estimate in advance, may be included in said budget by annexing to said budget a statement in substantially the following form:

"The dedicated revenues anticipated during the year from (here insert one or more of the sources above, as the case may be) are hereby anticipated as revenue and are hereby appropriated for the purposes to which said revenue is dedicated by statute or other legal requirement."

b. Dedicated revenues included in accordance with this section shall be available for expenditure by the local unit as and when received in cash during the fiscal year. The inclusion of such dedicated revenues shall be subject to the approval of the director, who may require such explanatory statements or data in connection therewith as the director deems advisable for the information and protection of the public.

(cf: P.L.1999, c.292, s.1)

5. This act shall take effect immediately.