§ 105A-5. Local agency notice, hearing, and decision.

(a) Prerequisite. - A local agency may not submit a debt for setoff collection under this Chapter until it has given the notice required by this section and the claim has been finally determined as provided in this section.

(b) Notice. - A local agency must send written notice to a debtor that the agency intends to submit the debt owed by the debtor for collection by setoff. The notice must explain the basis for the agency's claim to the debt, that the agency intends to apply the debtor's refund against the debt, and that a collection assistance fee of fifteen dollars ($15.00) will be added to the debt if it is submitted for setoff. The notice must also inform the debtor that the debtor has the right to contest the matter by filing a request for a hearing with the local agency, must state the time limits and procedure for requesting the hearing, and must state that failure to request a hearing within the required time will result in setoff of the debt.

(c) Administrative Review. - A debtor who decides to contest a proposed setoff must file a written request for a hearing with the local agency within 30 days after the date the local agency mails a notice of the proposed action to the debtor. A request for a hearing is considered to be filed when it is delivered for mailing with postage prepaid and properly addressed. The governing body of the local agency or a person designated by the governing body must hold the hearing.

If the debtor disagrees with the decision of the governing body or the person designated by the governing body, the debtor may file a petition for a contested case under Article 3 of Chapter 150B of the General Statutes. The petition must be filed within 30 days after the debtor receives a copy of the local decision. Notwithstanding the provisions of G.S. 105-241.21, a local agency is considered an agency for purposes of contested cases and appeals under this Chapter.

In a hearing under this section, an issue that has previously been litigated in a court proceeding cannot be considered.

(d) Decision. - A decision made after a hearing under this section must determine whether a debt is owed to the local agency and the amount of the debt.

(e) Return of Amount Set Off. - If a local agency submits a debt for setoff collection under this Chapter without sending the notice required by subsection (b) of this section, the agency must send the taxpayer the entire amount set off plus the collection assistance fees provided in G.S. 105A-13. Similarly, if a local agency submits a debt for setoff collection under this Chapter after sending the required notice but before final determination of the debt and a decision finds that the local agency is not entitled to any part of the amount set off, the agency must send the taxpayer the entire amount set off plus the collection assistance fees provided in G.S. 105A-13. That portion of the amount returned that reflects the collection assistance fees must be paid from the local agency's funds.

If a local agency submits a debt for setoff collection under this Chapter after sending the required notice and the net proceeds collected that are credited to the local agency for the debt exceed the amount of the debt, the local agency must send the balance to the debtor. No part of the collection assistance fees provided in G.S. 105A-13 may be returned when a notice was sent and a debt is owed but the debt is less than the amount set off.

Interest accrues on the amount of a refund returned to a taxpayer under this subsection in accordance with G.S. 105-241.21. A local agency that returns a refund to a taxpayer under this subsection must pay from the local agency's funds any interest that has accrued since the fifth day after the Department mailed the notice of setoff to the taxpayer. (1979, c. 801, s. 94; 1997-490, s. 1; 2002-156, s. 5(b); 2007-491, s. 44(1)c; 2025-83, s. 11(a).)