

§ 105B-4. Prohibited conduct by payor; civil penalty.

(a) Notwithstanding any other provision of law, when a court finds, pursuant to a motion in the cause filed by the Authority joining the payor as a third party defendant, with 30 days notice to answer the motion, that a payor has willfully refused to comply with the provisions of this section, such payor shall be ordered to commence withholding and shall be held liable to the Authority for any amount which such payor should have withheld, except that such payor shall not be required to vary his normal pay or disbursement cycles in order to comply with these provisions.

(b) A payor shall not discharge from employment, refuse to employ, or otherwise take disciplinary action against any debtor because of the withholding. When a court finds that a payor has taken any of these actions, the payor shall be liable for a civil penalty. For a first offense, the civil penalty shall be one hundred dollars (\$100.00). For second and third offenses, the civil penalty shall be five hundred dollars (\$500.00) and one thousand dollars (\$1,000), respectively. Any payor who violates any provision of this paragraph shall be liable in a civil action for reasonable damages suffered by a debtor as a result of the violation, and a debtor discharged or demoted in violation of this paragraph shall be entitled to be reinstated to his former position. The statute of limitations for actions under this subsection shall be one year pursuant to G.S. 1-54.

The clear proceeds of civil penalties provided for in this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

(c) Any payor who withholds the sum provided in any notice or order to the payor shall not be liable for any penalties under this section. (1989, ch. 475, s. 1; 1998-215, s. 116, s. 1.)