

1 HB46
2 148474-3
3 By Representative Clouse
4 RFD: County and Municipal Government
5 First Read: 05-FEB-13
6 PFD: 01/24/2013

1 "b. The Alabama Department of Human Resources with
2 respect to the collection of debts and money owed under any
3 and all of its public assistance programs and other programs
4 administered by that department, including support programs
5 administered pursuant to the requirements of Title IV-D of the
6 Social Security Act.

7 "c. The Alabama Medicaid Agency with respect to the
8 collection of debts and money owed under any and all of the
9 programs it administers.

10 "d. The Alabama Department of Industrial Relations
11 with respect to the collection or recovery, or both, of debts
12 owed as a result of overpayments of state unemployment
13 compensation benefits.

14 "e. The Unified Judicial System with respect to the
15 collection of fines and court costs owed as a result of any
16 court or judicial proceeding.

17 "f. Counties and municipalities acting through a
18 third-party provider or organization as provided in Section
19 40-18-103, with respect to the collection of any debt owed and
20 finalized by law, ordinance, or resolution.

21 "(2) DEBTOR. Any individual owing money or having a
22 delinquent account with any claimant agency, which obligation
23 has not been adjudicated, satisfied by court order, set aside
24 by court order, or discharged in bankruptcy.

25 "(3) DEBT. Any liquidated sum due and owing any
26 claimant agency which has accrued through contract,
27 subrogation, tort, or operation of law regardless of whether

1 there is an outstanding judgment for that sum, or any
2 liquidated sum of child or spousal support, or both child and
3 spousal support, due and owing any individual eligible for and
4 receiving child support enforcement services through the
5 Alabama Department of Human Resources.

6 "(4) DEPARTMENT. The Department of Revenue of the
7 State of Alabama.

8 "(5) REFUND. The Alabama income tax refund which the
9 department determines to be due any individual taxpayer.

10 "\$40-18-103.

11 "(a) A county or municipality may submit a debt of
12 at least \$25 owed to it for collection under this chapter.
13 Provided, however, that a county or municipality must submit
14 the debt to the department through one of the following:

15 "(1) A third party provider representing more than
16 20 counties or 50 municipalities in Alabama who has agreed to
17 submit debts on behalf of a requesting county or municipality
18 pursuant to a common service contract as provided in Chapter
19 102 of Title 11 and who has been approved by the department to
20 submit debts on behalf of counties and municipalites.

21 "(2) The Association of County Commissions of
22 Alabama or an entity established through the Association of
23 County Commissions of Alabama.

24 "(3) The Alabama League of Municipalities or an
25 entity established through the Alabama League of
26 Municipalities.

1 "The third party provider or organization which
2 submits a debt on behalf of any county or municipality may
3 assess a reasonable fee for submitting the debt. This fee may
4 be assessed against the debtor and collected as the first
5 amount set off against any tax refund. In no event shall any
6 third party provider or organization which submits a debt
7 pursuant to this chapter be liable in any claim, lawsuit, or
8 action for more than the fee assessed for submitting the debt.

9 "~~(a)~~ (b) Within a time frame specified by the
10 department, a claimant agency seeking to collect a debt
11 through setoff shall supply the information necessary to
12 identify each debtor whose refund is sought to be set off and
13 certify the amount of debt or debts owed by each such debtor.

14 "~~(b)~~ (c) If a debtor identified by a claimant agency
15 is determined by the department to be entitled to a refund of
16 at least \$25 the department shall transfer an amount equal to
17 the refund owed, not to exceed the amount of the claimed debt
18 certified, to the claimant agency. When the income tax refund
19 owed exceeds the claimed debt, the department shall send the
20 excess amount to the debtor within a reasonable time after
21 such excess is determined.

22 "~~(c)~~ (d) At the time of the transfer of funds to a
23 claimant agency pursuant to subsection ~~(b)~~ (c) of this
24 section, the department shall notify the taxpayer or taxpayers
25 whose refund is sought to be set off that the transfer has
26 been made. Such notice shall clearly set forth the name of the
27 debtor, the manner in which the debt arose, the amount of the

1 claimed debt, the transfer of funds to the claimant agency
2 pursuant to subsection ~~(b)~~ (c) of this section and the
3 intention to set off the refund against the debt, the amount
4 of the refund in excess of the claimed debt, the taxpayer's
5 opportunity to give written notice to contest the setoff
6 within 30 days of the date of mailing of the notice, the name
7 and mailing address of the claimant agency to which the
8 application for a hearing must be sent, and the fact that the
9 failure to apply for such a hearing, in writing, within the
10 30-day period will be deemed a waiver of the opportunity to
11 contest the setoff. In the case of a joint return or a joint
12 refund, the notice shall also state the name of the taxpayer
13 named in the return, if any, against whom no debt is claimed,
14 the fact that a debt is not claimed against such taxpayer, the
15 fact that such taxpayer is entitled to receive a refund if it
16 is due him regardless of the debt asserted against his spouse,
17 and that in order to obtain a refund due him such taxpayer
18 must apply, in writing, for a hearing with the claimant agency
19 named in the notice within 30 days of the date of the mailing
20 of the notice. If a taxpayer fails to apply in writing for
21 such a hearing within 30 days of the mailing of such notice,
22 he will have waived his opportunity to contest the setoff.

23 "(e) Notwithstanding subsection (d), a claimant
24 county or municipality as provided for in subsection (a)
25 shall, at the time of the transfer of funds to the claimant
26 county or municipality, notify the taxpayer or taxpayers whose
27 refund is sought to be set off that the transfer has been

1 made. Such notice shall clearly set forth the name of the
2 debtor, the manner in which the debt arose, the amount of the
3 claimed debt, the transfer of funds to the claimant county or
4 municipality pursuant to subsection (c) and the intention to
5 set off the refund against the debt, notice that any refund in
6 excess of the claimed debt will be sent to the taxpayer, the
7 taxpayer's opportunity to give written notice to contest the
8 setoff within 30 days of the date of mailing of the notice,
9 the name and mailing address of the claimant county or
10 municipality to which the application for a hearing must be
11 sent, and the fact that the failure to apply for such a
12 hearing, in writing, within the 30-day period will be deemed a
13 waiver of the opportunity to contest the setoff. In the case
14 of a joint return or a joint refund, the notice shall also
15 state the name of the taxpayer named in the return, if any,
16 against whom no debt is claimed, the fact that a debt is not
17 claimed against such taxpayer, the fact that such taxpayer is
18 entitled to receive a refund if it is due him regardless of
19 the debt asserted against his spouse, and that in order to
20 obtain a refund due him such taxpayer must apply, in writing,
21 for a hearing with the claimant court or municipality named in
22 the notice within 30 days of the date of the mailing of the
23 notice. If a taxpayer fails to apply in writing for such a
24 hearing within 30 days of the mailing of such notice, he will
25 have waived his opportunity to contest the setoff.

26 "~~(d)~~ (f) Upon receipt of funds transferred from the
27 department pursuant to subsection ~~(b)~~ (c) of this section, the

1 claimant agency shall deposit and hold such funds in an escrow
2 account until a final determination of the validity of the
3 debt."

4 Section 2. This act shall become effective on the
5 first day of the third month following its passage and
6 approval by the Governor, or its otherwise becoming law.

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House of Representatives

Read for the first time and re-
ferred to the House of Representa-
tives committee on County and Mu-
nicipal Government..... 05-FEB-13

Read for the second time and placed
on the calendar with 1 substitute
and..... 14-FEB-13

Read for the third time and passed
as amended..... 26-FEB-13

Yeas 99, Nays 0, Abstains 0

Jeff Woodard
Clerk