

1 HB82
2 156093-4
3 By Representative Clouse
4 RFD: County and Municipal Government
5 First Read: 14-JAN-14
6 PFD: 01/06/2014

1 ENGROSSED

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4 A BILL
5 TO BE ENTITLED
6 AN ACT
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8 To amend Sections 40-18-100 and 40-18-103, Code of
9 Alabama 1975, relating to setoff debt collection; to allow
10 counties and municipalities within this state to set off from
11 income tax returns with respect to the collection of debts and
12 money owed to them as a result of any administrative or
13 judicial proceeding.

14 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

15 Section 1. Sections 40-18-100 and 40-18-103, Code of
16 Alabama 1975, are amended to read as follows:

17 "§40-18-100.

18 "For the purposes of this article, the following
19 terms shall have the respective meanings ascribed by this
20 section:

21 "(1) CLAIMANT AGENCY. Only:

22 "a. The Alabama Commission on Higher Education with
23 respect to the collection of debts under:

24 "1. The Alabama Student Grant Program provided for
25 by Chapter 33A of Title 16; and

26 "2. The Alabama Guaranteed Student Loan Program
27 provided for by Chapter 33B of Title 16.

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 an 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. For purposes of
21 this act, counties and municipalities shall include, without
22 limitation, all corporations and other instrumentalities whose
23 governing boards are comprised of a majority of members who
24 are appointed or elected by counties or municipalities.

25 "(2) DEBTOR. Any individual owing money or having a
26 delinquent account with any claimant agency, which obligation

1 has not been adjudicated, satisfied by court order, set aside
2 by court order, or discharged in bankruptcy.

3 "(3) DEBT. Any liquidated sum due and owing any
4 claimant agency which has accrued through contract,
5 subrogation, tort, or operation of law regardless of whether
6 there is an outstanding judgment for that sum, or any
7 liquidated sum of child or spousal support, or both child and
8 spousal support, due and owing any individual eligible for and
9 receiving child support enforcement services through the
10 Alabama Department of Human Resources.

11 "(4) DEPARTMENT. The Department of Revenue of the
12 State of Alabama.

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

15 "§40-18-103.

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

20 ~~"(1) A third party provider representing more than~~
21 ~~20 counties or 50 municipalities in Alabama who has agreed to~~
22 ~~submit debts on behalf of a requesting county or municipality~~
23 ~~pursuant to a common service contract as provided in Chapter~~
24 ~~102 of Title 11 and who has been approved by the department to~~
25 ~~submit debts on behalf of counties and municipalities.~~

1 ~~"(2)~~ (1) The Association of County Commissions of
2 Alabama or an entity established through the Association of
3 County Commissions of Alabama.

4 ~~"(3)~~ (2) The Alabama League of Municipalities or an
5 entity established through the Alabama League of
6 Municipalities.

7 ~~"The third party provider or organization which~~
8 ~~submits a debt on behalf of any county or municipality may~~
9 ~~assess a reasonable fee, which shall be no less than~~
10 ~~twenty-five dollars (\$25) and no more than five percent of the~~
11 ~~debt submitted, for submitting the debt. This fee may be~~
12 ~~assessed against the debtor and collected as the first amount~~
13 ~~set off against any tax refund. In no event shall any third~~
14 ~~party provider or organization which submits a debt pursuant~~
15 ~~to this chapter be liable in any claim, lawsuit, or action for~~
16 ~~more than the fee assessed for submitting the debt. amount set~~
17 ~~off against any tax refund.~~

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

23 ~~"(b)~~ (c) If a debtor identified by a claimant agency
24 is determined by the department to be entitled to a refund of
25 at least \$25 the department shall transfer an amount equal to
26 the refund owed, not to exceed the amount of the claimed debt
27 certified, to the claimant agency. When the income tax refund

1 owed exceeds the claimed debt, the department shall send the
2 excess amount to the debtor within a reasonable time after
3 such excess is determined.

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

1 named in the notice within 30 days of the date of the mailing
2 of the notice. If a taxpayer fails to apply in writing for
3 such a hearing within 30 days of the mailing of such notice,
4 he will have waived his opportunity to contest the setoff.

5 "(e) Notwithstanding subsection (d), a claimant
6 county or municipality as provided for in subsection (a)
7 shall, at the time of the transfer of funds to the claimant
8 county or municipality, notify the taxpayer or taxpayers whose
9 refund is sought to be set off that the transfer has been
10 made. Such notice shall clearly set forth the name of the
11 debtor, the manner in which the debt arose, the amount of the
12 claimed debt, the transfer of funds to the claimant county or
13 municipality pursuant to subsection (c) and the intention to
14 set off the refund against the debt, notice that any refund in
15 excess of the claimed debt will be sent to the taxpayer, the
16 taxpayer's opportunity to give written notice to contest the
17 setoff within 30 days of the date of mailing of the notice,
18 the name and mailing address of the claimant county or
19 municipality to which the application for a hearing must be
20 sent, and the fact that the failure to apply for such a
21 hearing, in writing, within the 30-day period will be deemed a
22 waiver of the opportunity to contest the setoff. In the case
23 of a joint return or a joint refund, the notice shall also
24 state the name of the taxpayer named in the return, if any,
25 against whom no debt is claimed, the fact that a debt is not
26 claimed against such taxpayer, the fact that such taxpayer is
27 entitled to receive a refund if it is due him regardless of

1 the debt asserted against his spouse, and that in order to
2 obtain a refund due him such taxpayer must apply, in writing,
3 for a hearing with the claimant court or municipality named in
4 the notice within 30 days of the date of the mailing of the
5 notice. If a taxpayer fails to apply in writing for such a
6 hearing within 30 days of the mailing of such notice, he will
7 have waived his opportunity to contest the setoff.

8 "~~(d)~~(f) Upon receipt of funds transferred from the
9 department pursuant to subsection ~~(b)~~(c) of this section, the
10 claimant agency shall deposit and hold such funds in an escrow
11 account until a final determination of the validity of the
12 debt."

13 Section 2. This act shall become effective on the
14 first day of the third month following its passage and
15 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..... 14-JAN-14

Read for the second time and placed
on the calendar 1 amendment 16-JAN-14

Read for the third time and passed
as amended..... 04-FEB-14

Yeas 96, Nays 0, Abstains 0

Jeff Woodard
Clerk