

1 HB82
2 156093-8
3 By Representative Clouse
4 RFD: County and Municipal Government
5 First Read: 14-JAN-14
6 PFD: 01/06/2014

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

ENROLLED, An Act,

To amend Sections 40-18-100 and 40-18-103, Code of Alabama 1975, relating to setoff debt collection; to allow counties and municipalities within this state to set off from income tax returns with respect to the collection of debts and money owed to them as a result of any administrative or judicial proceeding.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

"§40-18-100.

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

"(1) CLAIMANT AGENCY. Only:

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

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

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

"b. The Alabama Department of Human Resources with respect to the collection of debts and money owed under any and all of its public assistance programs and other programs

1 administered by that department, including support programs
2 administered pursuant to the requirements of Title IV-D of the
3 Social Security Act.

4 "c. The Alabama Medicaid Agency with respect to the
5 collection of debts and money owed under any and all of the
6 programs it administers.

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

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

14 "f. Counties and municipalities acting through a
15 third-party provider or an organization as provided in Section
16 40-18-103, with respect to the collection of any debt owed and
17 finalized by law, ordinance, or resolution. For purposes of
18 this act, counties and municipalities shall include, without
19 limitation, all corporations and other instrumentalities whose
20 governing boards are comprised of a majority of members who
21 are appointed or elected by counties or municipalities.

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

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

9 "(4) DEPARTMENT. The Department of Revenue of the
 10 State of Alabama.

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

13 "§40-18-103.

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

18 "~~(1) A third party provider representing more than~~
 19 ~~20 counties or 50 municipalities in Alabama who has agreed to~~
 20 ~~submit debts on behalf of a requesting county or municipality~~
 21 ~~pursuant to a common service contract as provided in Chapter~~
 22 ~~102 of Title 11 and who has been approved by the department to~~
 23 ~~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

1 the refund owed, not to exceed the amount of the claimed debt
2 certified, to the claimant agency. When the income tax refund
3 owed exceeds the claimed debt, the department shall send the
4 excess amount to the debtor within a reasonable time after
5 such excess is determined.

6 "~~(c)~~ (d) At the time of the transfer of funds to a
7 claimant agency pursuant to subsection ~~(b)~~ (c) of this section,
8 the department shall 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 agency
13 pursuant to subsection ~~(b)~~ (c) of this section and the
14 intention to set off the refund against the debt, the amount
15 of the refund in excess of the claimed debt, the taxpayer's
16 opportunity to give written notice to contest the setoff
17 within 30 days of the date of mailing of the notice, the name
18 and mailing address of the claimant agency to which the
19 application for a hearing must be sent, and the fact that the
20 failure to apply for such a hearing, in writing, within the
21 30-day period will be deemed a waiver of the opportunity to
22 contest the setoff. In the case of a joint return or a joint
23 refund, the notice shall also state the name of the taxpayer
24 named in the return, if any, against whom no debt is claimed,
25 the fact that a debt is not claimed against such taxpayer, the

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

9 "(e) Notwithstanding subsection (d), a claimant
10 county or municipality as provided for in subsection (a)
11 shall, at the time of the transfer of funds to the claimant
12 county or municipality, notify the taxpayer or taxpayers whose
13 refund is sought to be set off that the transfer has been
14 made. Such notice shall clearly set forth the name of the
15 debtor, the manner in which the debt arose, the amount of the
16 claimed debt, the transfer of funds to the claimant county or
17 municipality pursuant to subsection (c) and the intention to
18 set off the refund against the debt, notice that any refund in
19 excess of the claimed debt will be sent to the taxpayer, the
20 taxpayer's opportunity to give written notice to contest the
21 setoff within 30 days of the date of mailing of the notice,
22 the name and mailing address of the claimant county or
23 municipality to which the application for a hearing must be
24 sent, and the fact that the failure to apply for such a
25 hearing, in writing, within the 30-day period will be deemed a

1 waiver of the opportunity to contest the setoff. In the case
2 of a joint return or a joint refund, the notice shall also
3 state the name of the taxpayer named in the return, if any,
4 against whom no debt is claimed, the fact that a debt is not
5 claimed against such taxpayer, the fact that such taxpayer is
6 entitled to receive a refund if it is due him regardless of
7 the debt asserted against his spouse, and that in order to
8 obtain a refund due him such taxpayer must apply, in writing,
9 for a hearing with the claimant ~~court~~ county or municipality
10 named in the notice within 30 days of the date of the mailing
11 of the notice. If a taxpayer fails to apply in writing for
12 such a hearing within 30 days of the mailing of such notice,
13 he will have waived his opportunity to contest the setoff.

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

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

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17

Speaker of the House of Representatives

President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in
and was passed by the House 04-FEB-14, as amended.

Jeff Woodard
Clerk

Senate	20-MAR-14	Amended and Passed
House	01-APR-14	Concurred in Senate Amendment