

1 STATE OF OKLAHOMA

2 1st Session of the 52nd Legislature (2009)

3 COMMITTEE SUBSTITUTE

4 FOR

5 HOUSE BILL NO. 1800

6 By: Cooksey

7 COMMITTEE SUBSTITUTE

8 An Act relating to municipal courts; amending 11 O.S.
9 2001, Section 27-126, as amended by Section 3,
10 Chapter 61, O.S.L. 2006 (11 O.S. Supp. 2008, Section
11 27-126), which relates to the Oklahoma Municipal
12 Code; modifying amount of costs that may be collected
13 by clerks of courts not of record; amending 68 O.S.
14 2001, Section 205.2, as last amended by Section 1,
15 Chapter 135, O.S.L. 2007 (68 O.S. Supp. 2008, Section
16 205.2), which relates to the Uniform Tax Procedure;
17 modifying entities that may file claims against the
18 income tax refunds of individuals; allowing a
19 municipal court to collect certain debts; and
20 declaring an emergency.

21 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

22 SECTION 1. AMENDATORY 11 O.S. 2001, Section 27-126, as
23 amended by Section 3, Chapter 61, O.S.L. 2006 (11 O.S. Supp. 2008,
24 Section 27-126), is amended to read as follows:

25 Section 27-126. Except as provided in Section 14-111 of this
26 title and subject to other limitations or exceptions imposed by law,
27 the municipal governing body shall determine by ordinance the costs
28 that may be charged and collected by the clerk of the court, but

1 these costs shall not exceed the sum of ~~Twenty-five Dollars (\$25.00)~~
2 Seventy-five Dollars (\$75.00) plus the fees and mileage of jurors
3 and witnesses.

4 SECTION 2. AMENDATORY 68 O.S. 2001, Section 205.2, as
5 last amended by Section 1, Chapter 135, O.S.L. 2007 (68 O.S. Supp.
6 2008, Section 205.2), is amended to read as follows:

7 Section 205.2 A. A state agency, a municipal court or a
8 district court seeking to collect a debt, unpaid fines and cost or
9 final judgment of at least Fifty Dollars (\$50.00) from an individual
10 who has filed a state income tax return may file a claim with the
11 Oklahoma Tax Commission requesting that the amount owed to the
12 agency, a municipal court or a district court be deducted from any
13 state income tax refund due to that individual. The claim shall be
14 filed electronically in a form prescribed by the Tax Commission and
15 shall contain information necessary to identify the person owing the
16 debt, including the full name and Social Security number of the
17 debtor.

18 1. Upon receiving a claim from a state agency, the municipal
19 court or a district court, the Tax Commission shall notify the
20 agency or the district court whether there are funds available to
21 pay the claim. Provided, the Tax Commission need not report
22 available funds of less than Fifty Dollars (\$50.00).

23 2. The state agency, the municipal court or the district court
24 shall send notice to the debtor by regular mail at the last-known

1 address of the debtor as shown by the records of the Tax Commission
2 when seeking to collect a debt not reduced to final judgment. The
3 state agency, the municipal court or the district court shall send
4 notice to the judgment debtor or municipal court defendant by first
5 class mail at the last-known address of the judgment debtor or
6 municipal court defendant as shown by the records of the Tax
7 Commission when seeking to collect a final judgment or unpaid
8 municipal fines and cost. The notice shall state:

- 9 a. that a claim has been filed,
- 10 b. the basis for the claim,
- 11 c. that such state agency, municipal court or district
12 court has applied to the Tax Commission for any
13 portion of the tax refund due to the debtor or
14 municipal court defendant which would satisfy the
15 debt, unpaid municipal fines and cost, or final
16 judgment in full or in part,
- 17 d. that the debtor or municipal court defendant has the
18 right to contest the claim by sending a written
19 request to the state agency, the municipal court or
20 the district court for a hearing to protest the claim,
21 and if the debtor or municipal court defendant fails
22 to apply for a hearing within sixty (60) days after
23 the date of the mailing of the notice, the debtor or
24 municipal court defendant shall be deemed to have

1 waived his or her opportunity to contest the claim.
2 Provided, if the claim was filed by the Department of
3 Human Services, the notice shall state that the debtor
4 must contest the claim by sending a written request to
5 the Department within thirty (30) days after the date
6 of the mailing of the notice,

7 e. that a collection expense of five percent (5%) of the
8 gross proceeds owed to the state agency, municipal
9 court or district court shall be charged to the debtor
10 or municipal court defendant and withheld from the
11 refund upon final determination of the debt or final
12 judgment at the hearing or upon failure of the debtor
13 to request a hearing, and

14 f. if the taxpayer settles the outstanding debt, unpaid
15 municipal fines and costs, or final judgment with the
16 agency, municipal court or district court before the
17 time to contest the claim expires, the agency, the
18 municipal court or the district court shall notify the
19 Tax Commission in writing or by electronic media that
20 the claim has been released.

21 3. In the case of a joint return, the notice shall state:

22 a. the name of any taxpayer named in the return against
23 whom no debt, no unpaid fines and cost, or final
24 judgment is claimed,

- 1 b. the fact that a debt, unpaid municipal fines and cost,
2 or final judgment is not claimed against the taxpayer,
3 c. the fact that the taxpayer is entitled to receive a
4 refund if it is due regardless of the debt, municipal
5 fines and cost, or final judgment asserted against the
6 debtor or municipal court defendant,
7 d. that in order to obtain the refund due, the taxpayer
8 must apply, in writing, for a hearing with the
9 municipal court, district court, or the agency named
10 in the notice within sixty (60) days after the date of
11 the mailing of the notice. Provided, if the claim was
12 filed by the Department of Human Services, the notice
13 shall state that the taxpayer must apply, in writing,
14 for a hearing with the Department within thirty (30)
15 days after the date of the mailing of the notice, and
16 e. if the taxpayer against whom no debt, no unpaid
17 municipal fines and cost, or final judgment is claimed
18 fails to apply in writing for a hearing within sixty
19 (60) days after the mailing of the notice, the
20 taxpayer shall have waived his or her right to a
21 refund. Provided, if the claim was filed by the
22 Department of Human Services, the notice shall state
23 that if the taxpayer fails to apply in writing for a
24 hearing with the Department within thirty (30) days

1 after the date of the mailing of the notice, the
2 taxpayer shall have waived his or her right to a
3 refund.

4 B. If the municipal court, district court or agency asserting
5 the claim receives a written request for a hearing from the debtor
6 or taxpayer against whom no debt, no municipal fines and cost, or
7 final judgment is claimed ~~requesting a hearing~~, the agency, the
8 municipal court or the district court shall grant a hearing
9 according to the provisions of the Administrative Procedures Act,
10 Section 250 et seq. of Title 75 of the Oklahoma Statutes. It shall
11 be determined at the hearing whether the claimed sum is correct or
12 whether an adjustment to the claim shall be made. Pending final
13 determination at the hearing of the validity of the debt, unpaid
14 fines and cost, or final judgment asserted by the municipal court,
15 the district court or the agency, no action shall be taken in
16 furtherance of the collection of the debt, unpaid fines and cost, or
17 final judgment. Appeals from actions taken at the hearing shall be
18 in accordance with the provisions of the Administrative Procedures
19 Act.

20 C. Upon final determination at a hearing, as provided for in
21 subsection B of this section, of the amount of the debt, unpaid
22 fines and cost, or final judgment, or upon failure of the debtor or
23 taxpayer against whom no debt, no unpaid fines and cost, or final
24 judgment is claimed to request such a hearing, the municipal court,

1 the district court or the agency shall submit in the manner
2 prescribed by the Tax Commission notification of the action taken on
3 the claim and a request that the amount owed, including the
4 collection expense, be deducted from the tax refund due to the
5 debtor and transferred to the municipal court, the district court or
6 the agency. However, if the tax refund due is inadequate to pay the
7 collection expense and debt, unpaid fines and cost, or final
8 judgment, the balance due the state agency, the municipal court, or
9 the district court shall be a continuing debt or final judgment
10 until paid in full.

11 D. Upon receipt of notification provided in subsection C of
12 this section, the Tax Commission shall:

13 1. Deduct from the refund five percent (5%) of the gross
14 proceeds owed to the state agency, the municipal court or district
15 court and distribute it by retaining two percent (2%) and
16 transferring three percent (3%) to the municipal court, the district
17 court or the state agency as an expense of collection. The two
18 percent (2%) retained by the Tax Commission shall be deposited in
19 the Oklahoma Tax Commission Fund;

20 2. Transfer the amount of debt, unpaid fines and cost, or final
21 judgment or so much thereof as is available to the state agency,
22 municipal court or the district court;

23 3. Notify the debtor in writing as to how the refund was
24 applied; and

1 4. Refund to the debtor any balance remaining after deducting
2 the collection expense and debt, unpaid fines and cost, or final
3 judgment.

4 E. The Tax Commission shall deduct from any state tax refund
5 due to a taxpayer the amount of delinquent state tax, and penalty
6 and interest thereon, which such taxpayer owes pursuant to any state
7 tax law prior to payment of such refund.

8 F. The Tax Commission shall have first priority over all other
9 agencies, municipal courts or district courts when the Tax
10 Commission is collecting a debt, municipal court fines and cost, or
11 final judgment pursuant to the provisions of this section. Priority
12 in multiple claims by other agencies, municipal courts or district
13 courts pursuant to the provisions of this section shall be in the
14 order in time, in which the Tax Commission receives the claim from
15 the agencies, municipal courts and district courts required by the
16 provisions of subsection A of this section.

17 G. The Tax Commission shall prescribe or approve forms and
18 promulgate rules and regulations for implementing the provisions of
19 this section.

20 H. The information obtained by an agency, municipal court or by
21 the district court from the Tax Commission pursuant to the
22 provisions of this section shall be used only to aid in collection
23 of the debt, unpaid fines and cost, or final judgment owed to the
24 agency, municipal court or a district court. Disclosure of the

1 information for any other purpose shall constitute a misdemeanor.
2 Any agency or court employee or person convicted of violating this
3 provision shall be subject to a fine not exceeding One Thousand
4 Dollars (\$1,000.00) or imprisonment in the county jail for a term
5 not exceeding one (1) year, or both said fine and imprisonment and,
6 if still employed by the agency or the courts, shall be dismissed
7 from employment.

8 I. The Tax Commission may employ the procedures provided by
9 this section in order to collect a debt owed to the Internal Revenue
10 Service if the Internal Revenue Service requires such procedure as a
11 condition to providing information to the Commission concerning
12 federal income tax.

13 J. The provisions of this section shall not apply to claims
14 filed under the provisions of Section 2906 or Section 5011 of this
15 title.

16 SECTION 3. It being immediately necessary for the preservation
17 of the public peace, health and safety, an emergency is hereby
18 declared to exist, by reason whereof this act shall take effect and
19 be in full force from and after its passage and approval.

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