

1 ENGROSSED HOUSE  
2 BILL NO. 1800

By: Cooksey of the House

3 and

4 Aldridge of the Senate

5  
6  
7 ( municipal courts - amending 11 O.S., Section 27-126 -  
8 Oklahoma Municipal Code - amending 68 O.S., Section  
9 205.2 - Uniform Tax Procedure -  
10 emergency )

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

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

17 Section 27-126. Except as provided in Section 14-111 of this  
18 title and subject to other limitations or exceptions imposed by law,  
19 the municipal governing body shall determine by ordinance the costs  
20 that may be charged and collected by the clerk of the court, but  
21 these costs shall not exceed the sum of ~~Twenty-five Dollars (\$25.00)~~  
22 Seventy-five Dollars (\$75.00) plus the fees and mileage of jurors  
23 and witnesses.

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1 SECTION 2. AMENDATORY 68 O.S. 2001, Section 205.2, as  
2 last amended by Section 1, Chapter 135, O.S.L. 2007 (68 O.S. Supp.  
3 2008, Section 205.2), is amended to read as follows:

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

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

20 2. The state agency, the municipal court or the district court  
21 shall send notice to the debtor by regular mail at the last-known  
22 address of the debtor as shown by the records of the Tax Commission  
23 when seeking to collect a debt not reduced to final judgment. The  
24 state agency, the municipal court or the district court shall send

1 notice to the judgment debtor or municipal court defendant by first  
2 class mail at the last-known address of the judgment debtor or  
3 municipal court defendant as shown by the records of the Tax  
4 Commission when seeking to collect a final judgment or unpaid  
5 municipal fines and cost. The notice shall state:

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

1 must contest the claim by sending a written request to  
2 the Department within thirty (30) days after the date  
3 of the mailing of the notice,

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

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

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

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

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

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

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

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

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

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

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

22 3. Notify the debtor in writing as to how the refund was  
23 applied; and  
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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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1 Passed the House of Representatives the 25th day of February,  
2 2009.

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5 Presiding Officer of the House of  
6 Representatives

7 Passed the Senate the \_\_\_\_ day of \_\_\_\_\_, 2009.

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10 Presiding Officer of the Senate

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