

ENROLLED HOUSE
BILL NO. 1800

By: Cooksey and Sherrer of the
House

and

Aldridge of the Senate

An Act relating to municipal courts; authorizing municipalities to enter into certain contracts with collection agencies; authorizing collection fees; amending 11 O.S. 2001, Section 27-126, as amended by Section 3, Chapter 61, O.S.L. 2006 (11 O.S. Supp. 2008, Section 27-126), which relates to the Oklahoma Municipal Code; modifying amount of costs that may be collected by clerks of courts not of record; amending 68 O.S. 2001, Section 205.2, as last amended by Section 1, Chapter 135, O.S.L. 2007 (68 O.S. Supp. 2008, Section 205.2), which relates to the Uniform Tax Procedure; modifying entities that may file claims against the income tax refunds of individuals; allowing a municipal court to collect certain debts; providing for codification; and declaring an emergency.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 22-138 of Title 11, unless there is created a duplication in numbering, reads as follows:

A. The governing body of a municipality may enter into a contract with a collection agency for the provision of collection services for one or more of the following items:

1. Debts and accounts receivable including, but not limited to, unpaid fees, penalties, interest, and other sums due the municipality, as applicable; or

2. Court penalties, costs, fines and fees in cases in municipal court in which the accused has failed to appear or otherwise failed to satisfy a monetary obligation ordered by the court.

B. A governing body of a municipality that enters into a contract with a collection agency pursuant to this section may authorize the addition of a collection fee in an amount not to exceed thirty-five percent (35%) on each item described in subsection A of this section that has been referred by the municipality to the collection agency for collection. If a municipality enters into such contract with a collection agency and authorizes the collection fee, the court shall order defendants to reimburse the fee arising pursuant to paragraph 2 of subsection A of this section and such court-ordered fee may be collected as provided by law for the collection of any other civil debt or criminal action.

SECTION 2. AMENDATORY 11 O.S. 2001, Section 27-126, as amended by Section 3, Chapter 61, O.S.L. 2006 (11 O.S. Supp. 2008, Section 27-126), is amended to read as follows:

Section 27-126. Except as provided in Section 14-111 of this title and subject to other limitations or exceptions imposed by law, the municipal governing body shall determine by ordinance the court costs and fees that may be charged and collected by the clerk of the court, but these. Court costs shall not exceed the sum of ~~Twenty-five Dollars (\$25.00)~~ Thirty Dollars (\$30.00) plus the fees and mileage of jurors and witnesses. The clerk of the court is authorized to charge and collect the fees as determined by the municipal body.

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

Section 205.2 A. A state agency, a municipal court or a district court seeking to collect a debt, unpaid fines and cost or final judgment of at least Fifty Dollars (\$50.00) from an individual who has filed a state income tax return may file a claim with the Oklahoma Tax Commission requesting that the amount owed to the agency, a municipal court or a district court be deducted from any state income tax refund due to that individual. The claim shall be filed electronically in a form prescribed by the Tax Commission and shall contain information necessary to identify the person owing the

debt, including the full name and Social Security number of the debtor.

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

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

- a. that a claim has been filed,
- b. the basis for the claim,
- c. that such state agency, municipal court or district court has applied to the Tax Commission for any portion of the tax refund due to the debtor or municipal court defendant which would satisfy the debt, unpaid municipal fines and cost, or final judgment in full or in part,
- d. that the debtor or municipal court defendant has the right to contest the claim by sending a written request to the state agency, the municipal court or the district court for a hearing to protest the claim, and if the debtor or municipal court defendant fails to apply for a hearing within sixty (60) days after the date of the mailing of the notice, the debtor or municipal court defendant shall be deemed to have waived his or her opportunity to contest the claim. Provided, if the claim was filed by the Department of Human Services, the notice shall state that the debtor must contest the claim by sending a written request to the Department within thirty (30) days after the date of the mailing of the notice,

- e. that a collection expense of five percent (5%) of the gross proceeds owed to the state agency, municipal court or district court shall be charged to the debtor or municipal court defendant and withheld from the refund upon final determination of the debt or final judgment at the hearing or upon failure of the debtor to request a hearing, and
- f. if the taxpayer settles the outstanding debt, unpaid municipal fines and costs, or final judgment with the agency, municipal court or district court before the time to contest the claim expires, the agency, the municipal court or the district court shall notify the Tax Commission in writing or by electronic media that the claim has been released.

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

- a. the name of any taxpayer named in the return against whom no debt, no unpaid fines and cost, or final judgment is claimed,
- b. the fact that a debt, unpaid municipal fines and cost, or final judgment is not claimed against the taxpayer,
- c. the fact that the taxpayer is entitled to receive a refund if it is due regardless of the debt, municipal fines and cost, or final judgment asserted against the debtor or municipal court defendant,
- d. that in order to obtain the refund due, the taxpayer must apply, in writing, for a hearing with the municipal court, district court, or the agency named in the notice within sixty (60) days after the date of the mailing of the notice. Provided, if the claim was filed by the Department of Human Services, the notice shall state that the taxpayer must apply, in writing, for a hearing with the Department within thirty (30) days after the date of the mailing of the notice, and
- e. if the taxpayer against whom no debt, no unpaid municipal fines and cost, or final judgment is claimed fails to apply in writing for a hearing within sixty (60) days after the mailing of the notice, the

taxpayer shall have waived his or her right to a refund. Provided, if the claim was filed by the Department of Human Services, the notice shall state that if the taxpayer fails to apply in writing for a hearing with the Department within thirty (30) days after the date of the mailing of the notice, the taxpayer shall have waived his or her right to a refund.

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

C. Upon final determination at a hearing, as provided for in subsection B of this section, of the amount of the debt, unpaid fines and cost, or final judgment, or upon failure of the debtor or taxpayer against whom no debt, no unpaid fines and cost, or final judgment is claimed to request such a hearing, the municipal court, the district court or the agency shall submit in the manner prescribed by the Tax Commission notification of the action taken on the claim and a request that the amount owed, including the collection expense, be deducted from the tax refund due to the debtor and transferred to the municipal court, the district court or the agency. However, if the tax refund due is inadequate to pay the collection expense and debt, unpaid fines and cost, or final judgment, the balance due the state agency, the municipal court, or the district court shall be a continuing debt or final judgment until paid in full.

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

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

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

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

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

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

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

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

H. The information obtained by an agency, municipal court or by the district court from the Tax Commission pursuant to the provisions of this section shall be used only to aid in collection of the debt, unpaid fines and cost, or final judgment owed to the agency, municipal court or a district court. Disclosure of the information for any other purpose shall constitute a misdemeanor. Any agency or court employee or person convicted of violating this

provision shall be subject to a fine not exceeding One Thousand Dollars (\$1,000.00) or imprisonment in the county jail for a term not exceeding one (1) year, or both said fine and imprisonment and, if still employed by the agency or the courts, shall be dismissed from employment.

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

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

SECTION 4. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the House of Representatives the 14th day of May, 2009.

Presiding Officer of the House of
Representatives

Passed the Senate the 18th day of May, 2009.

Presiding Officer of the Senate