

1 STATE OF OKLAHOMA

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

3 HOUSE BILL 1800

By: Cooksey

4
5 AS INTRODUCED

6 An Act relating to municipal courts; amending 11 O.S.
7 2001, Sections 14-111.1 and 27-126, as amended by
8 Section 3, Chapter 61, O.S.L. 2006 (11 O.S. Supp.
9 2008, Section 27-126), which relate to the Oklahoma
10 Municipal Code; modifying amount municipal courts may
11 retain as administrative fees; modifying amount of
12 costs that may be collected by clerks of courts not
13 of record; amending 68 O.S. 2001, Section 205.2, as
14 last amended by Section 1, Chapter 135, O.S.L. 2007
15 (68 O.S. Supp. 2008, Section 205.2), which relates to
16 the Uniform Tax Procedure; modifying entities that
17 may file claims against the income tax refunds of
18 individuals; allowing a municipal court to collect
19 certain debts; and declaring an emergency.

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

21 SECTION 1. AMENDATORY 11 O.S. 2001, Section 14-111.1, is
22 amended to read as follows:

23 Section 14-111.1 A. Notwithstanding any other provision of
24 law, a municipal court which collects a penalty assessment or other
state fee from a defendant pursuant to state law may retain ~~eight~~
~~cents (\$0.08)~~ ten percent (10%) of ~~such~~ the monies and may also
retain all interest accrued thereon prior to the due date for
deposits as provided in state law. The fee shall be deposited as
determined by the municipal governing body.

1 B. A municipal court in a municipality having a basic law
2 enforcement academy approved by the Council on Law Enforcement
3 Education and Training pursuant to the criteria developed by the
4 Council for training law enforcement officers may retain as an
5 administrative fee two percent (2%) of any penalty assessment or
6 other state fee imposed by state statute. The two percent (2%)
7 administrative fee shall be deducted from the portion of the penalty
8 assessment or other state fee retained by such municipality.

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

12 Section 27-126. Except as provided in Section 14-111 of this
13 title and subject to other limitations or exceptions imposed by law,
14 the municipal governing body shall determine by ordinance the costs
15 that may be charged and collected by the clerk of the court, but
16 these costs shall not exceed the sum of ~~Twenty five Dollars (\$25.00)~~
17 One Hundred Dollars (\$100.00) plus the fees and mileage of jurors
18 and witnesses.

19 SECTION 3. AMENDATORY 68 O.S. 2001, Section 205.2, as
20 last amended by Section 1, Chapter 135, O.S.L. 2007 (68 O.S. Supp.
21 2008, Section 205.2), is amended to read as follows:

22 Section 205.2 A. A state agency, a municipal court or a
23 district court seeking to collect a debt, unpaid fines and cost or
24 final judgment of at least Fifty Dollars (\$50.00) from an individual

1 who has filed a state income tax return may file a claim with the
2 Oklahoma Tax Commission requesting that the amount owed to the
3 agency, a municipal court or a district court be deducted from any
4 state income tax refund due to that individual. The claim shall be
5 filed electronically in a form prescribed by the Tax Commission and
6 shall contain information necessary to identify the person owing the
7 debt, including the full name and Social Security number of the
8 debtor.

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

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

24 a. that a claim has been filed,

- 1 b. the basis for the claim,
- 2 c. that such state agency, municipal court or district
- 3 court has applied to the Tax Commission for any
- 4 portion of the tax refund due to the debtor or
- 5 municipal court defendant which would satisfy the
- 6 debt, unpaid municipal fines and cost, or final
- 7 judgment in full or in part,
- 8 d. that the debtor or municipal court defendant has the
- 9 right to contest the claim by sending a written
- 10 request to the state agency, the municipal court or
- 11 the district court for a hearing to protest the claim,
- 12 and if the debtor or municipal court defendant fails
- 13 to apply for a hearing within sixty (60) days after
- 14 the date of the mailing of the notice, the debtor or
- 15 municipal court defendant shall be deemed to have
- 16 waived his or her opportunity to contest the claim.
- 17 Provided, if the claim was filed by the Department of
- 18 Human Services, the notice shall state that the debtor
- 19 must contest the claim by sending a written request to
- 20 the Department within thirty (30) days after the date
- 21 of the mailing of the notice,
- 22 e. that a collection expense of five percent (5%) of the
- 23 gross proceeds owed to the state agency, municipal
- 24 court or district court shall be charged to the debtor

1 or municipal court defendant and withheld from the
2 refund upon final determination of the debt or final
3 judgment at the hearing or upon failure of the debtor
4 to request a hearing, and

5 f. if the taxpayer settles the outstanding debt, unpaid
6 municipal fines and costs, or final judgment with the
7 agency, municipal court or district court before the
8 time to contest the claim expires, the agency, the
9 municipal court or the district court shall notify the
10 Tax Commission in writing or by electronic media that
11 the claim has been released.

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

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

16 b. the fact that a debt, unpaid municipal fines and cost,
17 or final judgment is not claimed against the taxpayer,

18 c. the fact that the taxpayer is entitled to receive a
19 refund if it is due regardless of the debt, municipal
20 fines and cost, or final judgment asserted against the
21 debtor or municipal court defendant,

22 d. that in order to obtain the refund due, the taxpayer
23 must apply, in writing, for a hearing with the
24 municipal court, district court, or the agency named

1 in the notice within sixty (60) days after the date of
2 the mailing of the notice. Provided, if the claim was
3 filed by the Department of Human Services, the notice
4 shall state that the taxpayer must apply, in writing,
5 for a hearing with the Department within thirty (30)
6 days after the date of the mailing of the notice, and
7 e. if the taxpayer against whom no debt, no unpaid
8 municipal fines and cost, or final judgment is claimed
9 fails to apply in writing for a hearing within sixty
10 (60) days after the mailing of the notice, the
11 taxpayer shall have waived his or her right to a
12 refund. Provided, if the claim was filed by the
13 Department of Human Services, the notice shall state
14 that if the taxpayer fails to apply in writing for a
15 hearing with the Department within thirty (30) days
16 after the date of the mailing of the notice, the
17 taxpayer shall have waived his or her right to a
18 refund.

19 B. If the municipal court, district court or agency asserting
20 the claim receives a written request for a hearing from the debtor
21 or taxpayer against whom no debt, no municipal fines and cost, or
22 final judgment is claimed ~~requesting a hearing,~~ the agency, the
23 municipal court or the district court shall grant a hearing
24 according to the provisions of the Administrative Procedures Act,

1 Section 250 et seq. of Title 75 of the Oklahoma Statutes. It shall
2 be determined at the hearing whether the claimed sum is correct or
3 whether an adjustment to the claim shall be made. Pending final
4 determination at the hearing of the validity of the debt, unpaid
5 fines and cost, or final judgment asserted by the municipal court,
6 the district court or the agency, no action shall be taken in
7 furtherance of the collection of the debt, unpaid fines and cost, or
8 final judgment. Appeals from actions taken at the hearing shall be
9 in accordance with the provisions of the Administrative Procedures
10 Act.

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

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

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

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

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

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

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

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

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

13 H. The information obtained by an agency, municipal court or by
14 the district court from the Tax Commission pursuant to the
15 provisions of this section shall be used only to aid in collection
16 of the debt, unpaid fines and cost, or final judgment owed to the
17 agency, municipal court or a district court. Disclosure of the
18 information for any other purpose shall constitute a misdemeanor.
19 Any agency or court employee or person convicted of violating this
20 provision shall be subject to a fine not exceeding One Thousand
21 Dollars (\$1,000.00) or imprisonment in the county jail for a term
22 not exceeding one (1) year, or both said fine and imprisonment and,
23 if still employed by the agency or the courts, shall be dismissed
24 from employment.

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

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

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

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