

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 55th Legislature (2015)

4 HOUSE BILL 1825

By: Martin of the House

5 and

6 Standridge of the Senate

7
8
9 AS INTRODUCED

10 An Act relating to revenue and taxation; amending 68
11 O.S. 2011, Section 205.2, as last amended by Section
12 1, Chapter 266, O.S.L. 2013 (68 O.S. Supp. 2014,
13 Section 205.2), which relates to claims by certain
governmental entities; modifying provisions related
to claims for certain health care service costs; and
declaring an emergency.

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

18 SECTION 1. AMENDATORY 68 O.S. 2011, Section 205.2, as
19 last amended by Section 1, Chapter 266, O.S.L. 2013 (68 O.S. Supp.
20 2014, Section 205.2), is amended to read as follows:

21 Section 205.2 A. A state agency, a municipal court, a district
22 court or a public housing authority operating pursuant to Section
23 1062 of Title 63 of the Oklahoma Statutes seeking to collect a debt,
24 unpaid fines and cost or final judgment of at least Fifty Dollars

1 (\$50.00) from an individual who has filed a state income tax return
2 may file a claim with the Oklahoma Tax Commission requesting that
3 the amount owed to the agency, a municipal court, a district court
4 or a public housing authority operating pursuant to Section 1062 of
5 Title 63 of the Oklahoma Statutes be deducted from any state income
6 tax refund due to that individual. The claim shall be filed
7 electronically in a form prescribed by the Tax Commission and shall
8 contain information necessary to identify the person owing the debt,
9 including the full name and Social Security number of the debtor.

10 1. Upon receiving a claim from a state agency, the municipal
11 court, a district court or a public housing authority operating
12 pursuant to Section 1062 of Title 63 of the Oklahoma Statutes, the
13 Tax Commission shall deduct the claim amount, plus collection
14 expenses as provided in this section, from the tax refund due to the
15 debtor and transfer the amount to the municipal court, the district
16 court, the agency or the public housing authority. Provided, the
17 Tax Commission need not report available funds of less than Fifty
18 Dollars (\$50.00).

19 2. The state agency, the municipal court, a district court or a
20 public housing authority operating pursuant to Section 1062 of Title
21 63 of the Oklahoma Statutes shall send notice to the debtor by
22 regular mail at the last-known address of the debtor as shown by the
23 records of the Tax Commission when seeking to collect a debt not
24 reduced to final judgment. The state agency, the municipal court, a

1 district court or a public housing authority operating pursuant to
2 Section 1062 of Title 63 of the Oklahoma Statutes shall send notice
3 to the judgment debtor or municipal court defendant by first-class
4 mail at the last-known address of the judgment debtor or municipal
5 court defendant as shown by the records of the Tax Commission when
6 seeking to collect a final judgment or unpaid municipal fines and
7 cost. The Tax Commission shall provide in an agreed electronic
8 format to the Department of Human Services the amount withheld by
9 the Tax Commission, the home address and the Social Security number
10 of the taxpayer. The notice shall state:

- 11 a. that a claim has been filed with the Tax Commission
12 for any portion of the tax refund due to the debtor or
13 municipal court defendant which would satisfy the
14 debt, unpaid municipal fines and cost, or final
15 judgment in full or in part,
- 16 b. the basis for the claim,
- 17 c. that the Tax Commission has deducted an amount from
18 the refund and remitted it to such state agency,
19 municipal court, district court or public housing
20 authority,
- 21 d. that the debtor or municipal court defendant has the
22 right to contest the claim by sending a written
23 request to the state agency, the municipal court, the
24 district court or the public housing authority for a

1 hearing to protest the claim, and if the debtor or
2 municipal court defendant fails to apply for a hearing
3 within sixty (60) days after the date of the mailing
4 of the notice, the debtor or municipal court defendant
5 shall be deemed to have waived his or her opportunity
6 to contest the claim. Provided, if the claim was
7 filed by the Department of Human Services, the notice
8 shall state that the debtor must contest the claim by
9 sending a written request to the Department within
10 thirty (30) days after the date of the mailing of the
11 notice, and

12 e. that a collection expense of five percent (5%) of the
13 gross proceeds owed to the state agency, municipal
14 court or district court has been charged to the debtor
15 or municipal court defendant and withheld from the
16 refund.

17 3. If the state agency, municipal court, district court or
18 public housing authority determines that a refund is due to the
19 taxpayer, the state agency, municipal court, district court or
20 public housing authority shall reimburse the amount claimed plus the
21 five-percent collection expense to the taxpayer. The state agency,
22 municipal court, district court or public housing authority may
23 request reimbursement of the two-percent collection expense retained
24 by the Tax Commission. Such request must be made within ninety (90)

1 days of reimbursement to the taxpayer. If timely requested, the Tax
2 Commission shall make such reimbursement to the state agency,
3 municipal court, district court or public housing authority within
4 ninety (90) days of the request.

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

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

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

13 B. If the municipal court, district court, agency or public
14 housing authority operating pursuant to Section 1062 of Title 63 of
15 the Oklahoma Statutes asserting the claim receives a written request
16 for a hearing from the debtor or taxpayer against whom no debt, no
17 municipal fines and cost, or final judgment is claimed, the agency,
18 the municipal court, the district court or public housing authority
19 operating pursuant to Section 1062 of Title 63 of the Oklahoma
20 Statutes shall grant a hearing according to the provisions of the
21 Administrative Procedures Act. It shall be determined at the
22 hearing whether the claimed sum is correct or whether an adjustment
23 to the claim shall be made. Pending final determination at the
24 hearing of the validity of the debt, unpaid fines and cost, or final

1 judgment asserted by the municipal court, the district court, agency
2 or public housing authority operating pursuant to Section 1062 of
3 Title 63 of the Oklahoma Statutes, no action shall be taken in
4 furtherance of the collection of the debt, unpaid fines and cost, or
5 final judgment. Appeals from actions taken at the hearing shall be
6 in accordance with the provisions of the Administrative Procedures
7 Act.

8 C. Upon final determination at a hearing, as provided for in
9 subsection B of this section, of the amount of the debt, unpaid
10 fines and cost, or final judgment, or upon failure of the debtor or
11 taxpayer against whom no debt, no unpaid fines and cost, or final
12 judgment is claimed to request such a hearing, the municipal court,
13 the district court, agency or public housing authority operating
14 pursuant to Section 1062 of Title 63 of the Oklahoma Statutes shall
15 apply the amount of the claim to the debt owed. Any amounts held by
16 the municipal court, district court, agency or public housing
17 authority operating pursuant to Section 1062 of Title 63 of the
18 Oklahoma Statutes in excess of the final determination of the debt
19 and collection expense shall be refunded by the municipal court,
20 district court, agency or public housing authority operating
21 pursuant to Section 1062 of Title 63 of the Oklahoma Statutes to the
22 taxpayer. However, if the tax refund due is inadequate to pay the
23 collection expense and debt, unpaid fines and cost, or final
24 judgment, the balance due the state agency, the municipal court, the

1 district court or public housing authority operating pursuant to
2 Section 1062 of Title 63 of the Oklahoma Statutes shall be a
3 continuing debt or final judgment until paid in full.

4 D. Upon receipt of a claim as provided in subsection A of this
5 section, the Tax Commission shall:

6 1. Deduct from the refund five percent (5%) of the gross
7 proceeds owed to the state agency, the municipal court, district
8 court or public housing authority operating pursuant to Section 1062
9 of Title 63 of the Oklahoma Statutes, and distribute it by retaining
10 two percent (2%) and transferring three percent (3%) to the
11 municipal court, the district court, the state agency or public
12 housing authority operating pursuant to Section 1062 of Title 63 of
13 the Oklahoma Statutes, as an expense of collection. The two percent
14 (2%) retained by the Tax Commission shall be deposited in the
15 Oklahoma Tax Commission Fund;

16 2. Transfer the amount of the claimed debt, unpaid fines and
17 cost, or final judgment or so much thereof as is available to the
18 state agency, municipal court, the district court or public housing
19 authority operating pursuant to Section 1062 of Title 63 of the
20 Oklahoma Statutes;

21 3. Notify the debtor in writing as to how the refund was
22 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 and
6 interest thereon, which such taxpayer owes pursuant to any state tax
7 law prior to payment of such refund.

8 F. The Tax Commission shall have first priority over all other
9 agencies, municipal courts, district courts or public housing
10 authorities operating pursuant to Section 1062 of Title 63 of the
11 Oklahoma Statutes, when the Tax Commission is collecting a debt,
12 municipal court fines and cost, or final judgment pursuant to the
13 provisions of this section. Subsequent to the Tax Commission
14 priority, a claim filed by the Department of Human Services for the
15 collection of child support and spousal support shall have priority
16 over all other claims filed pursuant to this section. Priority in
17 multiple claims by other agencies, authorities, municipal courts or
18 district courts pursuant to the provisions of this section shall be
19 in the order in time, in which the Tax Commission receives the claim
20 from the agencies, authorities, municipal courts and district courts
21 required by the provisions of subsection A of this section.

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

1 H. The information obtained by an agency, authority, municipal
2 court or by the district court from the Tax Commission pursuant to
3 the provisions of this section shall be used only to aid in
4 collection of the debt, unpaid fines and cost, or final judgment
5 owed to the agency, authority, municipal court or a district court.
6 Disclosure of the information for any other purpose shall constitute
7 a misdemeanor. Any agency, authority or court employee or person
8 convicted of violating this provision shall be subject to a fine not
9 exceeding One Thousand Dollars (\$1,000.00) or imprisonment in the
10 county jail for a term not exceeding one (1) year, or both fine and
11 imprisonment and, if still employed by the agency, authority or the
12 courts, shall be dismissed from employment.

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

18 J. The provisions of this section shall not apply to claims
19 filed under the provisions of Section 2906 or Section 5011 of this
20 title ~~or to any debt owed to a state agency for health care or~~
21 ~~medical services unless said health care or medical services were~~
22 ~~rendered, induced or otherwise obtained as a result of fraud, breach~~
23 ~~of contract, error, ineligibility or any illegal or unauthorized~~
24 ~~means.~~

1 SECTION 2. It being immediately necessary for the preservation
2 of the public peace, health and safety, an emergency is hereby
3 declared to exist, by reason whereof this act shall take effect and
4 be in full force from and after its passage and approval.

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6 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS AND BUDGET, dated
7 02/12/2015 - DO PASS, As Coauthored.

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