

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas  
2 84th General Assembly  
3 Regular Session, 2003  
4

As Engrossed: H3/19/03

# A Bill

HOUSE BILL 2726

5 By: Representative Pickett  
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## For An Act To Be Entitled

9 AN ACT TO ALLOW COUNTY AND DISTRICT COURTS TO BE  
10 INCLUDED IN THE DEFINITION OF "CLAIMANT AGENCIES"  
11 TO ALLOW THEM TO SETOFF FINES AGAINST STATE TAX  
12 REFUNDS.  
13

### Subtitle

14 TO ALLOW COUNTY AND DISTRICT COURTS TO  
15 BE INCLUDED IN THE DEFINITION OF  
16 CLAIMANT AGENCIES TO ALLOW THEM TO  
17 SETOFF FINES AGAINST STATE TAX REFUNDS.  
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21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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23 *SECTION 1. Arkansas Code § 26-36-301 is amended to read as follows:*  
24 *26-36-301. Purposes.*

25 *(a) The purpose of this subchapter is to establish as policy that all*  
26 *claimant agencies and the Revenue Division of the Department of Finance and*  
27 *Administration shall cooperate in identifying debtors who owe money to the*  
28 *state or an Arkansas county, city, or town through its various claimant*  
29 *agencies and who qualify for refunds from the division.*

30 *(b) It is also the intent of this subchapter that procedures be*  
31 *established for setting off against any such refund the sum of any debt owed*  
32 *to the state or an Arkansas county, city, or town.*  
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34 *SECTION 2. Arkansas Code § 26-36-303, concerning the definition*  
35 *agencies which may collect debt by setting off against state tax refunds, is*  
36 *amended to read as follows:*



1           26-36-303. Definitions.

2           As used in this subchapter, unless the context otherwise requires:

3           (1) "Claimant agencies" means:

4           (A) State-supported colleges, universities, and technical  
5 institutes;

6           (B) The Department of Human Services;

7           (C) The Arkansas Student Loan Authority;

8           (D) The Student Loan Guarantee Foundation;

9           (E) The Auditor of State;

10          (F) The Department of Higher Education;

11          (G) The Office of Child Support Enforcement of the Revenue  
12 Division of the Department of Finance and Administration; and

13          (H) Arkansas circuit, juvenile, and chancery courts  
14 county, district, or city courts;

15          (2)(A) "Debt" means any liquidated sum due and owing any  
16 claimant agency, which has accrued through contract, subrogation, tort,  
17 operation of law, legal proceeding, or any other legal theory, regardless of  
18 whether there is an outstanding judgment for that sum.

19          (B) "Debt" shall include accrued obligations due to an  
20 assignment of child support rights made to the state as a condition of  
21 eligibility for welfare assistance and those which have accrued from contract  
22 with the claimant agency by an individual who is not the recipient of welfare  
23 assistance.

24          (C) "Debt" shall also include the owing of money to a  
25 claimant agency as a result of a debtor's cashing both the original and the  
26 duplicate state warrants+.

27          (D) "Debt" shall also include all of the following that  
28 have been due and payable for more than one (1) year and that are not under  
29 appeal:

30                 (i) Traffic fines;

31                 (ii) Any court imposed fine or cost, including fines  
32 related to the prosecution of hot checks under The Arkansas Hot Check Law, §  
33 5-37-301 et seq.; and

34                 (iii) Restitution ordered by a circuit, county,  
35 district, or city court related to the violation of any state law;

36          (3) "Debtor" means any individual owing money to or having a

1 delinquent account with any claimant agency, which obligation has not been  
2 adjudicated, satisfied by court order, set aside by court order, or  
3 discharged in bankruptcy;

4 (4) "Division" means the Revenue Division of the Department of  
5 Finance and Administration;

6 (5) "Refund" means the Arkansas income tax refund which the  
7 division determines to be due any individual taxpayer, less any amounts  
8 determined by the division to be due to the division for payment of any state  
9 tax as defined in the Arkansas Tax Procedure Act, as amended, § 26-18-101 et  
10 seq.; and

11 (6) "Setoff" means the withholding of part or all of income tax  
12 refunds due individuals who owe debts to the State of Arkansas or an Arkansas  
13 county, city, or town.

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15 SECTION 3. Arkansas Code § 26-36-303(6), concerning the definition of  
16 setoff for purposes of the law allowing certain agencies to collect debt by  
17 setting off against state tax refunds, is amended to read as follows:

18 (6) "Setoff" means the withholding of part or all of income tax  
19 refunds due individuals who owe debts to the State of Arkansas, a county, a  
20 city, or a town.

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22 SECTION 4. Arkansas Code § 26-36-316(b)(1), concerning regarding  
23 dispositions of proceeds collected, is amended to add an additional  
24 subsection to read as follows:

25 (b)(1)(A) For purposes of this subchapter, except as provided under  
26 subdivision (b)(1)(B) of this section, five percent (5%) of the proceeds  
27 collected by the division through setoff shall represent the division's cost  
28 of effecting setoff, and these costs shall be charged to the respective  
29 claimant agency as a collection assistance fee.

30 (B) If the claimant agency is a circuit, county, district,  
31 or city court, then ten percent (10%) of the proceeds collected by the  
32 division through setoff shall represent the division's cost of effecting  
33 setoff and shall be charged to the respective circuit, county, district, or  
34 city court as a collection assistance fee.

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36 SECTION 5. This act shall become effective on the first day of the

1 calendar month following the ninetieth day after the sine die adjournment of  
2 this session or the first day of the calendar month following the ninetieth  
3 day after a recess or adjournment for a period longer than ninety (90) days.

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/s/ Pickett