

Hall of the House of Representatives
84th General Assembly - Regular Session, 2003
Amendment Form

Subtitle of House Bill No. 2726

"TO ALLOW COUNTY AND DISTRICT COURTS TO BE INCLUDED IN THE DEFINITION
OF CLAIMANT AGENCIES TO ALLOW THEM TO SETOFF FINES AGAINST STATE TAX
REFUNDS."

Amendment No. 1 to House Bill No. 2726.

Amend House Bill No. 2726 as originally introduced:

Delete all language after the enacting clause and substitute the following:

“SECTION 1. Arkansas Code § 26-36-301 is amended to read as follows:
26-36-301. Purposes.

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

(b) It is also the intent of this subchapter that procedures be established for setting off against any such refund the sum of any debt owed to the state or an Arkansas county, city, or town.

SECTION 2. Arkansas Code § 26-36-303, concerning the definition agencies which may collect debt by setting off against state tax refunds, is amended to read as follows:

26-36-303. Definitions.

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

(1) "Claimant agencies" means:

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

(B) The Department of Human Services;

(C) The Arkansas Student Loan Authority;

(D) The Student Loan Guarantee Foundation;

(E) The Auditor of State;

(F) The Department of Higher Education;

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

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

(2)(A) "Debt" means any liquidated sum due and owing any



claimant agency, which has accrued through contract, subrogation, tort, operation of law, legal proceeding, or any other legal theory, regardless of whether there is an outstanding judgment for that sum.

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

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

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

(i) Traffic fines;

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

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

(3) "Debtor" means any individual owing money to or having a delinquent account with any claimant agency, which obligation has not been adjudicated, satisfied by court order, set aside by court order, or discharged in bankruptcy;

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

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

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

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

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

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

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

(B) If the claimant agency is a circuit, county, district, or city court, then ten percent (10%) of the proceeds collected by the

division through setoff shall represent the division's cost of effecting setoff and shall be charged to the respective circuit, county, district, or city court as a collection assistance fee.

SECTION 5. This act shall become effective on the first day of the calendar month following the ninetieth day after the sine die adjournment of this session or the first day of the calendar month following the ninetieth day after a recess or adjournment for a period longer than ninety (90) days."

The Amendment was read _____
By: Representative Pickett
JSE/RCK - 031820031359
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Chief Clerk