

1 **SENATE FLOOR VERSION**

2 February 25, 2020

3 **AS AMENDED**

4 SENATE BILL NO. 1572

5 By: Hall

6 [ income tax refunds - ~~emergency~~ ]

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

10 SECTION 1. AMENDATORY 68 O.S. 2011, Section 205.2, as  
11 last amended by Section 1, Chapter 280, O.S.L. 2015 (68 O.S. Supp.  
12 2019, Section 205.2), is amended to read as follows:

13 Section 205.2. A. For purposes of this section, a "qualifying  
14 entity" shall mean a:

15 1. State agency;

16 2. Municipal court;

17 3. District court;

18 4. Public housing authority operating pursuant to Section 1062  
19 of Title 63 of the Oklahoma Statutes;

20 5. District attorney seeking to collect unpaid court-ordered  
21 monetary obligations; ~~or~~

22 6. Municipal government, and authorities or trusts with the  
23 municipal government as a beneficiary, seeking to recover expenses  
24 related to emergency medical services. For the purposes of this

1 section, "emergency medical service" means a service whereby an  
2 authorized agent or employee responds to a call for service or any  
3 other issue that may arise with the intent of providing care,  
4 services, transportation or treatment to any person who may be  
5 injured or in need of medical assistance; or

6 7. The designee of an entity described in paragraphs 1 through  
7 ~~5~~ 6 of this subsection.

8 B. A qualified entity seeking to collect a debt, unpaid fines  
9 and cost or final judgment of at least Fifty Dollars (\$50.00) from  
10 an individual who has filed a state income tax return may file a  
11 claim with the Oklahoma Tax Commission requesting that the amount  
12 owed to the qualified entity be deducted from any state income tax  
13 refund due to that individual. The claim shall be filed  
14 electronically in a form prescribed by the Tax Commission and shall  
15 contain information necessary to identify the person owing the debt,  
16 including the full name and Social Security number of the debtor.

17 1. Upon receiving a claim from a qualified entity, the Tax  
18 Commission shall deduct the claim amount, plus collection expenses  
19 as provided in this section, from the tax refund due to the debtor  
20 and transfer the amount to the qualified entity. Provided, the Tax  
21 Commission need not report available funds of less than Fifty  
22 Dollars (\$50.00).

23 2. The qualified entity shall send notice to the debtor by  
24 regular mail at the last-known address of the debtor as shown by the

1 records of the Tax Commission when seeking to collect a debt not  
2 reduced to final judgment. The qualified entity 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 qualified entity,
- 19 d. that the debtor or municipal court defendant has the  
20 right to contest the claim by sending a written  
21 request to the qualified entity for a hearing to  
22 protest the claim, and if the debtor or municipal  
23 court defendant fails to apply for a hearing within  
24 sixty (60) days after the date of the mailing of the

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

9 e. that a collection expense of five percent (5%) of the  
10 gross proceeds owed to the qualified entity has been  
11 charged to the debtor or municipal court defendant and  
12 withheld from the refund.

13 3. If the qualified entity determines that a refund is due to  
14 the taxpayer, the qualified entity shall reimburse the amount  
15 claimed plus the five-percent collection expense to the taxpayer.  
16 The qualified entity may request reimbursement of the two-percent  
17 collection expense retained by the Tax Commission. Such request  
18 must be made within ninety (90) days of reimbursement to the  
19 taxpayer. If timely requested, the Tax Commission shall make such  
20 reimbursement to the qualified entity within ninety (90) days of the  
21 request.

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

1 Department of Human Services, the notice shall state  
2 that if the taxpayer fails to apply in writing for a  
3 hearing with the Department within thirty (30) days  
4 after the date of the mailing of the notice, the  
5 taxpayer shall have waived his or her right to a  
6 refund.

7 C. If the qualified entity asserting the claim receives a  
8 written request for a hearing from the debtor or taxpayer against  
9 whom no debt, no municipal fines and cost, or final judgment is  
10 claimed, the qualified entity shall grant a hearing according to the  
11 provisions of the Administrative Procedures Act. It shall be  
12 determined at the hearing whether the claimed sum is correct or  
13 whether an adjustment to the claim shall be made. Pending final  
14 determination at the hearing of the validity of the debt, unpaid  
15 fines and cost, or final judgment asserted by the qualified entity,  
16 no action shall be taken in furtherance of the collection of the  
17 debt, unpaid fines and cost, or final judgment. Appeals from  
18 actions taken at the hearing shall be in accordance with the  
19 provisions of the Administrative Procedures Act.

20 D. Upon final determination at a hearing, as provided for in  
21 subsection C of this section, of the amount of the debt, unpaid  
22 fines and cost, or final judgment, or upon failure of the debtor or  
23 taxpayer against whom no debt, no unpaid fines and cost, or final  
24 judgment is claimed to request such a hearing, the qualified entity

1 shall apply the amount of the claim to the debt owed. Any amounts  
2 held by the qualified entity in excess of the final determination of  
3 the debt and collection expense shall be refunded by the qualified  
4 entity to the taxpayer. However, if the tax refund due is  
5 inadequate to pay the collection expense and debt, unpaid fines and  
6 cost, or final judgment, the balance due the qualified entity shall  
7 be a continuing debt or final judgment until paid in full.

8 E. Upon receipt of a claim as provided in subsection A of this  
9 section, the Tax Commission shall:

10 1. Deduct from the refund five percent (5%) of the gross  
11 proceeds owed to the qualified entity, and distribute it by  
12 retaining two percent (2%) and transferring three percent (3%) to  
13 the qualified entity, 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 qualified entity;

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

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

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

5 G. The Tax Commission shall have first priority over all other  
6 qualified entities, when the Tax Commission is collecting a debt,  
7 municipal court fines and cost, or final judgment pursuant to the  
8 provisions of this section. Subsequent to the Tax Commission  
9 priority, a claim filed by the Department of Human Services for the  
10 collection of child support and spousal support shall have priority  
11 over all other claims filed pursuant to this section. Priority in  
12 multiple claims by other qualified entities pursuant to the  
13 provisions of this section shall be in the order in time, in which  
14 the Tax Commission receives the claim from the qualified entities  
15 required by the provisions of subsection B of this section.

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

19 I. The information obtained by a qualified entity from the Tax  
20 Commission pursuant to the provisions of this section shall be used  
21 only to aid in collection of the debt, unpaid fines and cost, or  
22 final judgment owed to the qualified entity. Disclosure of the  
23 information for any other purpose shall constitute a misdemeanor.  
24 Any employee of a qualified entity or person convicted of violating



1 this provision shall be subject to a fine not exceeding One Thousand  
2 Dollars (\$1,000.00) or imprisonment in the county jail for a term  
3 not exceeding one (1) year, or both fine and imprisonment and, if  
4 still employed by the qualified entity, shall be dismissed from  
5 employment.

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

11 K. The provisions of this section shall not apply to claims  
12 filed under the provisions of Section 2906 or Section 5011 of this  
13 title.

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

18 COMMITTEE REPORT BY: COMMITTEE ON FINANCE  
19 February 25, 2020 - DO PASS AS AMENDED  
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