

**Act Number: 2014-321**

**Bill Number: H-82**

**Approved: April 7<sup>th</sup> 2014**

**Code of Alabama 1975 Section 40-18-100**

**Definitions.**

For the purposes of this article, the following terms shall have the respective meanings ascribed by this section:

(1) CLAIMANT AGENCY. Only:

a. The Alabama Commission on Higher Education with respect to the collection of debts under:

1. The Alabama Student Grant Program provided for by Chapter 33A of Title 16; and

2. The Alabama Guaranteed Student Loan Program provided for by Chapter 33B of Title 16.

b. The Alabama Department of Human Resources with respect to the collection of debts and money owed under any and all of its public assistance programs and other programs administered by that department, including support programs administered pursuant to the requirements of Title IV-D of the Social Security Act.

c. The Alabama Medicaid Agency with respect to the collection of debts and money owed under any and all of the programs it administers.

d. The Alabama Department of Labor with respect to the collection or recovery, or both, of debts owed as a result of overpayments of state unemployment compensation benefits.

e. The Unified Judicial System with respect to the collection of fines and court costs owed as a result of any court or judicial proceeding.

f. Counties and municipalities acting through an organization as provided in Section 40-18-103, with respect to the collection of any debt owed and finalized by law, ordinance, or resolution. For purposes of this section and Section 40-18-103, counties and municipalities shall include, without limitation, all corporations and other instrumentalities whose governing boards are comprised of a majority of members who are appointed or elected by counties or municipalities.

g. A housing authority under Chapter 1, Title 24, with respect to the collection of debts and money owed under any and all of the programs administered by the authority.

(2) DEBTOR. Any individual owing money 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.

(3) DEBT. Any liquidated sum due and owing any claimant agency which has accrued through contract, subrogation, tort, or operation of law regardless of whether there is an outstanding judgment for that sum, or any liquidated sum of child or spousal support, or both child and spousal support, due and owing any individual eligible for and receiving child support enforcement services through the Alabama Department of Human Resources.

(4) DEPARTMENT. The Department of Revenue of the State of Alabama.

(5) REFUND. The Alabama income tax refund which the department determines to be due any individual taxpayer.

*(Acts 1981, No. 81-696, p. 1168, §1; Acts 1985, 2nd Ex. Sess., No. 85-994, p. 360, §1; Acts 1995, No. 95-750, p. 1748, §1; Acts 1997, No. 97-246, p. 426, §1; Act 2004-505, p. 981, §1; Act 2014-321, §1; Act 2014-424, §2.)*

### **Code of Alabama 1975 Section 40-18-103**

#### **Procedure for setoff and notification of taxpayer.**

(a) A county or municipality may submit a debt of at least \$25 owed to it for collection under this chapter. Provided, however, that a county or municipality must submit the debt to the department through one of the following:

(1) The Association of County Commissions of Alabama or an entity established through the Association of County Commissions of Alabama.

(2) The Alabama League of Municipalities or an entity established through the Alabama League of Municipalities.

The organization which submits a debt on behalf of any county or municipality may assess a reasonable fee, which shall be twenty-five dollars (\$25) for submitting the debt. This fee may be assessed against the debtor and collected as the first amount set off against any tax refund.

(b) Within a time frame specified by the department, a claimant agency seeking to collect a debt through setoff shall supply the information necessary to identify each debtor whose refund is sought to be set off and certify the amount of debt or debts owed by each such debtor.

(c) If a debtor identified by a claimant agency is determined by the department to be entitled to a refund of at least \$25 the department shall transfer an amount equal to the refund owed, not to exceed the amount of the claimed debt certified, to the claimant agency. When the income tax

refund owed exceeds the claimed debt, the department shall send the excess amount to the debtor within a reasonable time after such excess is determined.

(d) At the time of the transfer of funds to a claimant agency pursuant to subsection (c), the department shall notify the taxpayer or taxpayers whose refund is sought to be set off that the transfer has been made. Such notice shall clearly set forth the name of the debtor, the manner in which the debt arose, the amount of the claimed debt, the transfer of funds to the claimant agency pursuant to subsection (c) and the intention to set off the refund against the debt, the amount of the refund in excess of the claimed debt, the taxpayer's opportunity to give written notice to contest the setoff within 30 days of the date of mailing of the notice, the name and mailing address of the claimant agency to which the application for a hearing must be sent, and the fact that the failure to apply for such a hearing, in writing, within the 30-day period will be deemed a waiver of the opportunity to contest the setoff. In the case of a joint return or a joint refund, the notice shall also state the name of the taxpayer named in the return, if any, against whom no debt is claimed, the fact that a debt is not claimed against such taxpayer, the fact that such taxpayer is entitled to receive a refund if it is due him or her regardless of the debt asserted against his or her spouse, and that in order to obtain a refund due, such taxpayer must apply, in writing, for a hearing with the claimant agency named in the notice within 30 days of the date of the mailing of the notice. If a taxpayer fails to apply in writing for such a hearing within 30 days of the mailing of such notice, the taxpayer will have waived the opportunity to contest the setoff.

(e) Notwithstanding subsection (d), a claimant county or municipality as provided for in subsection (a) shall, at the time of the transfer of funds to the claimant county or municipality, notify the taxpayer or taxpayers whose refund is sought to be set off that the transfer has been made. Such notice shall clearly set forth the name of the debtor, the manner in which the debt arose, the amount of the claimed debt, the transfer of funds to the claimant county or municipality pursuant to subsection (c) and the intention to set off the refund against the debt, notice that any refund in excess of the claimed debt will be sent to the taxpayer, the taxpayer's opportunity to give written notice to contest the setoff within 30 days of the date of mailing of the notice, the name and mailing address of the claimant county or municipality to which the application for a hearing must be sent, and the fact that the failure to apply for such a hearing, in writing, within the 30-day period will be deemed a waiver of the opportunity to contest the setoff. In the case of a joint return or a joint refund, the notice shall also state the name of the taxpayer named in the return, if any, against whom no debt is claimed, the fact that a debt is not claimed against such taxpayer, the fact that such taxpayer is entitled to receive a refund if it is due him or her regardless of the debt asserted against his or her spouse, and that in order to obtain a refund due, such taxpayer must apply, in writing, for a hearing with the claimant county or municipality named in the notice within 30 days of the date of the mailing of the notice. If a taxpayer fails to apply in writing for such a hearing within 30 days of the mailing of such notice, the taxpayer will have waived the opportunity to contest the setoff.

(f) Upon receipt of funds transferred from the department pursuant to subsection (c), the claimant agency shall deposit and hold such funds in an escrow account until a final determination of the validity of the debt.

***(Acts 1981, No. 81-696, p. 1168, §1; Act 2014-321, §1.)***