

As Amended by House Committee

Session of 2015

SENATE BILL No. 184

By Committee on Judiciary

2-10

1 AN ACT concerning ~~the code of civil procedure; relating to judgments;~~  
2 ~~dormancy~~ courts; relating to court costs, fees, fines and restitution;  
3 debts owed to courts; amending K.S.A. 75-6209 and K.S.A. 2014  
4 Supp. 60-2403, 75-719, 75-6202, 75-6204 and 75-6210 and repealing  
5 the existing section sections.  
6

7 *Be it enacted by the Legislature of the State of Kansas:*

8 Section 1. K.S.A. 2014 Supp. 60-2403 is hereby amended to read as  
9 follows: 60-2403. (a) (1) Except as provided in subsection (b) ~~or (d)~~, if a  
10 renewal affidavit is not filed or if execution, including any garnishment  
11 proceeding, support enforcement proceeding or proceeding in aid of  
12 execution, is not issued, within five years from the date of the entry of any  
13 judgment in any court of record in this state, including judgments in favor  
14 of the state or any municipality in the state, or within five years from the  
15 date of any order reviving the judgment or, if five years have intervened  
16 between the date of the last renewal affidavit filed or execution  
17 proceedings undertaken on the judgment and the time of filing another  
18 renewal affidavit or undertaking execution proceedings on it, the  
19 judgment, including court costs and fees therein shall become dormant,  
20 and shall cease to operate as a lien on the real estate of the judgment  
21 debtor. When a judgment becomes and remains dormant for a period of  
22 two years, it shall be the duty of the judge to release the judgment of  
23 record when requested to do so.

24 (2) A "renewal affidavit" is a statement under oath, signed by the  
25 judgment creditor or the judgment creditor's attorney, filed in the  
26 proceedings in which the judgment was entered and stating the remaining  
27 balance due and unpaid on the judgment.

28 (3) A "support enforcement proceeding" means any civil proceeding  
29 to enforce any judgment for payment of child support or maintenance and  
30 includes, but is not limited to, any income withholding proceeding under  
31 the income withholding act, K.S.A. 2014 Supp. 23-3101 et seq., and  
32 amendments thereto, any contempt proceeding and any civil proceeding  
33 under the uniform interstate family support act, K.S.A. 2014 Supp. 23-  
34 36,101 et seq., and amendments thereto.

35 (b) Except for those judgments which have become void as of July 1,  
36 2007, no judgment for the support of a child shall be or become dormant

1 for any purpose except as provided in this subsection. *Except for those*  
2 *judgments which have become void as of July 1, 2015, no judgment for*  
3 *court costs, fees, fines or restitution shall be or become dormant for any*  
4 *purpose except as provided in this subsection.* If a judgment would have  
5 become dormant under the conditions set forth in subsection (a), the  
6 judgment shall cease to operate as a lien on the real estate of the judgment  
7 debtor as of the date the judgment would have become dormant, but the  
8 judgment shall not be released of record pursuant to subsection (a).

9 (c) The time within which action must be taken to prevent a judgment  
10 from becoming dormant does not run during any period in which the  
11 enforcement of the judgment by legal process is stayed or prohibited.

12 ~~(d) If a renewal affidavit is not filed or if execution is not issued,~~  
13 ~~within 10 years from the date of the entry of any judgment of restitution in~~  
14 ~~any court of record in this state, the judgment, including court costs and~~  
15 ~~fees therein shall become dormant, and shall cease to operate as a lien on~~  
16 ~~the real estate of the judgment debtor. Except as provided in subsection~~  
17 ~~(b), when a judgment becomes and remains dormant for a period of two~~  
18 ~~years, it shall be the duty of the judge to release the judgment of record~~  
19 ~~when requested to do so.~~

20 **Sec. 2. K.S.A. 2014 Supp. 75-719 is hereby amended to read as**  
21 **follows: 75-719. (a) The ~~attorney general~~ *judicial administrator* is**  
22 **authorized to enter into contracts in accordance with this section for**  
23 **collection services for debts owed to courts or restitution owed under**  
24 **an order of restitution. On and after July 1, 1999, the cost of collection**  
25 **shall be paid by the defendant as an additional court cost in all**  
26 **criminal, traffic and juvenile offender cases where the defendant fails**  
27 **to pay any amount ordered by the court and the court utilizes the**  
28 **services of a contracting agent pursuant to this section. The cost of**  
29 **collection shall be deemed an administrative fee to pay the actual costs**  
30 **of collection made necessary by the defendant's failure to pay court**  
31 **debt and restitution.**

32 (b) As used in this section:

33 (1) "Beneficiary under an order of restitution" means the victim  
34 or victims of a crime to whom a district court has ordered restitution  
35 be paid;

36 (2) "contracting agent" means a person, firm, agency or other  
37 entity who contracts hereunder to provide collection services;

38 (3) "cost of collection" means the fee specified in contracts  
39 hereunder to be paid to or retained by a contracting agent for  
40 collection services. Cost of collection also includes any filing fee  
41 required under K.S.A. 60-4303, and amendments thereto, or  
42 administrative costs prescribed by the ~~attorney general~~ pursuant to rules  
43 ~~and regulations~~ *rules of the supreme court; and*

1       (4) "debts owed to courts" means any assessment of court costs,  
2 fines, fees, moneys expended by the state in providing counsel and  
3 other defense services to indigent defendants or other charges which a  
4 district court judgment has ordered to be paid to the court, and which  
5 remain unpaid in whole or in part, and includes any interest or  
6 penalties on such unpaid amounts as provided for in the judgment or  
7 by law. "Debts owed to courts" also includes: (A) The cost of collection  
8 when collection services of a contracting agent hereunder are utilized;  
9 and (B) court costs, fines, fees or other charges arising from failure to  
10 comply with a traffic citation within 30 days from the date of the mailing  
11 of the notice pursuant to K.S.A. 8-2110(b)(1), and amendments thereto.

12       (c) (1) Contracts authorized by this section may be entered into  
13 with state or federal agencies or political subdivisions of the state of  
14 Kansas, including contracts for participation in the collection  
15 program authorized by K.S.A. 75-6201 et seq., and amendments  
16 thereto. Such contracts also may be entered into with private firms or  
17 individuals selected by a procurement negotiation committee in  
18 accordance with K.S.A. 75-37,102, and amendments thereto, except  
19 that the ~~attorney general~~ *judicial administrator* shall designate a  
20 representative to serve as the chief administrative officer member of  
21 such committee and that the other two members of such committee  
22 shall be designated by the director of purchases and the judicial  
23 administrator.

24       (2) Prior to negotiating any contract for collection services, this  
25 procurement negotiation committee shall advertise for proposals,  
26 negotiate with firms and individuals submitting proposals and select  
27 among those submitting such proposals the party or parties to  
28 contract with for the purpose of collection services.

29       (3) ~~The attorney general~~ *supreme court* may adopt rules ~~and~~  
30 ~~regulations~~ as deemed appropriate for the administration of this  
31 section, including procedures to be used in the negotiation and  
32 execution of contracts pursuant to this section and procedures to be  
33 followed by those who utilize collection services under such contracts.

34       (4) For purposes of this section, the agencies, firms or individuals  
35 with whom contracts are entered under this section shall be known as  
36 contracting agents. ~~The attorney general~~ *judicial administrator* shall  
37 publish a list of the contracting agents for use by courts or  
38 beneficiaries under orders of restitution who desire to utilize the  
39 collection services of such agents.

40       (5) Each contract entered pursuant to this section shall provide  
41 for a fee to be paid to or retained by the contracting agent for  
42 collection services. Such fee shall be designated as the cost of collection  
43 hereunder, and shall not exceed 33% of the amount collected. The cost

1 **of collection shall be paid from the amount collected, but shall not be**  
2 **deducted from the debts owed to courts or restitution.** *If a contracting*  
3 *agent uses the debt setoff procedures pursuant to K.S.A. 75-6202 et seq.,*  
4 *and amendments thereto, to recover debts owed to the courts, the*  
5 *contracting agent's cost of collection for debt recovered through that*  
6 *program shall be the amount established by contract minus the collection*  
7 *assistance fee imposed by the director of accounts and reports of the*  
8 *department of administration pursuant to K.S.A. 75-6210, and*  
9 *amendments thereto.*

10 **(d) Judicial districts of the state of Kansas are authorized to**  
11 **utilize the collection services of contracting agents pursuant to this**  
12 **section for the purpose of collecting all outstanding debts owed to**  
13 **courts. Subject to rules and orders of the Kansas supreme court, each**  
14 **judicial district may establish by local rule guidelines for the**  
15 **compromise of court costs, fines, attorney fees and other charges**  
16 **assessed in district court cases.**

17 **(e) Any beneficiary under an order of restitution entered by a**  
18 **court after this section takes effect is authorized to utilize the**  
19 **collection services of contracting agents pursuant to this section for**  
20 **the purpose of collecting all outstanding amounts owed under such**  
21 **order of restitution.**

22 **(f) Contracts entered hereunder shall provide for the payment of**  
23 **any amounts collected to the clerk of the district court for the court in**  
24 **which the debt being collected originated, after first deducting the**  
25 **collection fee. In accounting for amounts collected from any person**  
26 **pursuant to this section, the district court clerk shall credit the**  
27 **person's amount owed in the amount of the net proceeds collected and**  
28 **shall not reduce the amount owed by any person by that portion of**  
29 **any payment which constitutes the cost of collection pursuant to this**  
30 **section.**

31 **(g) With the appropriate cost of collection paid to the contracting**  
32 **agent as agreed upon in the contract hereunder, the clerk shall then**  
33 **distribute amounts collected hereunder as follows:**

34 **(1) When collection services are utilized pursuant to subsection**  
35 **(d), all amounts shall be applied against the debts owed to the court as**  
36 **specified in the original judgment creating the debt;**

37 **(2) when collection services are utilized pursuant to subsection**  
38 **(e), all amounts shall be paid to the beneficiary under the order of**  
39 **restitution designated to receive such restitution, except where that**  
40 **beneficiary has received recovery from the Kansas crime victims**  
41 **compensation board and such board has subrogation rights pursuant**  
42 **to K.S.A. 74-7312, and amendments thereto, in which case all amounts**  
43 **shall be paid to the board until its subrogation lien is satisfied.**

1 (h) Whenever collection services are being utilized against the  
 2 same debtor pursuant to both subsections (d) and (e), any amounts  
 3 collected by a contracting agent shall be first applied to satisfy  
 4 subsection (e) debts, debts pursuant to an order of restitution. Upon  
 5 satisfaction of all such debts, amounts received from the same debtor  
 6 shall then be applied to satisfy subsection (d) debts, debts owed to  
 7 courts.

8 Sec. 3. K.S.A. 2014 Supp. 75-6202 is hereby amended to read as  
 9 follows: 75-6202. As used in this act:

10 (a) "Debtor" means any person who:

11 (1) Owes a debt to the state of Kansas or any state agency or any  
 12 municipality;

13 (2) owes support to an individual, or an agency of another state,  
 14 who is receiving assistance in collecting that support under K.S.A. 39-  
 15 756 or K.S.A. 2014 Supp. 20-378, and amendments thereto, or under  
 16 part D of title IV of the federal social security act, 42 U.S.C. § 651 et  
 17 seq., as amended; or

18 (3) owes a debt to a foreign state agency.

19 (b) "Debt" means:

20 (1) Any liquidated sum due and owing to the state of Kansas, or  
 21 any state agency, municipality or foreign state agency which has  
 22 accrued through contract, subrogation, tort, operation of law, or any  
 23 other legal theory regardless of whether there is an outstanding  
 24 judgment for that sum. A debt shall not include special assessments  
 25 except when the owner of the property assessed petitioned for the  
 26 improvement and any successor in interest of such owner of property;  
 27 or

28 (2) any amount of support due and owing an individual, or an  
 29 agency of another state, who is receiving assistance in collecting that  
 30 support under K.S.A. 39-756 or K.S.A. 2014 Supp. 20-378, and  
 31 amendments thereto, or under part D of title IV of the federal social  
 32 security act, 42 U.S.C. § 651 et seq., as amended, which amount shall  
 33 be considered a debt due and owing the district court trustee or the  
 34 Kansas department for children and families for the purposes of this  
 35 act; or

36 (3) any assessment of court costs, fines, fees, moneys expended by the  
 37 state in providing counsel and other defense services to indigent  
 38 defendants or other charges which a district court judgment has ordered  
 39 to be paid to the court and which remain unpaid in whole or in part, and  
 40 includes any interest or penalties on such unpaid amounts as provided for  
 41 in the judgment or by law. Such amount also includes the cost of collection  
 42 when the collection services of a contracting agent are utilized.

43 (c) "Refund" means any amount of Kansas income tax refund due

1 to any person as a result of an overpayment of tax, and for this  
2 purpose, a refund due to a husband and wife resulting from a joint  
3 return shall be considered to be separately owned by each individual  
4 in the proportion of each such spouse's contribution to income, as the  
5 term "contribution to income" is defined by rules and regulations of  
6 the secretary of revenue.

7 (d) "Net proceeds collected" means gross proceeds collected  
8 through final setoff against a debtor's earnings, refund or other  
9 payment due from the state or any state agency minus any collection  
10 assistance fee charged by the director of accounts and reports of the  
11 department of administration.

12 (e) "State agency" means any state office, officer, department,  
13 board, commission, institution, bureau, agency or authority or any  
14 division or unit thereof and any judicial district of this state or the  
15 clerk or clerks thereof. "State agency" also shall include any: (1)  
16 District court utilizing collection services pursuant to K.S.A. 75-719,  
17 and amendments thereto, to collect debts owed to such court; and (2)  
18 *contracting agent, as defined in K.S.A. 75-719, and amendments thereto,*  
19 *with which a district court contracts to collect debts owed to such court.*  
20 *Such contracting agent may directly establish a debt setoff account with*  
21 *the director for the sole purpose of collecting debts owed to courts.*

22 (f) "Person" means an individual, proprietorship, partnership,  
23 limited partnership, association, trust, estate, business trust,  
24 corporation, other entity or a governmental agency, unit or  
25 subdivision.

26 (g) "Director" means the director of accounts and reports of the  
27 department of administration.

28 (h) "Municipality" means any municipality as defined by K.S.A.  
29 75-1117, and amendments thereto.

30 (i) "Payor agency" means any state agency which holds money  
31 for, or owes money to, a debtor.

32 (j) "Foreign state or foreign state agency" means the states of  
33 Colorado, Missouri, Nebraska or Oklahoma or any agency of such  
34 states which has entered into a reciprocal agreement pursuant to  
35 K.S.A. 75-6215, and amendments thereto.

36 Sec. 4. K.S.A. 2014 Supp. 75-6204 is hereby amended to read as  
37 follows: 75-6204. (a) Subject to the limitations provided in this act, if a  
38 debtor fails to pay to the state of Kansas or any state agency, foreign  
39 state agency, municipality or the federal department of the treasury  
40 an amount owed, the director may setoff such amount *and a*  
41 *reasonable collection assistance fee determined in accordance with K.S.A.*  
42 *75-6210, and amendments thereto, against any money held for, or any*  
43 *money owed to, such debtor by the state or any state agency.*

1       **(b) The director may enter into an agreement with a municipality**  
2 **for participation in the setoff program for the purpose of assisting in**  
3 **the collection of a debt as defined by K.S.A. 75-6202, and amendments**  
4 **thereto. The director shall include in any such agreement a provision**  
5 **requiring the municipality to certify that the municipality has made at**  
6 **least three attempts to collect a debt prior to submitting such debt to**  
7 **setoff pursuant to this act.**

8       *(c) (1) Except as provided in subsection (c)(2), the director shall add*  
9 *the cost of collection and the debt for a total amount subject to setoff*  
10 *against a debtor.*

11       *(2) Any debts due and owing to an individual, the state of Kansas or*  
12 *an agency of another state that are being enforced by the Kansas*  
13 *department for children and families under part D of title IV of the federal*  
14 *social security act, 42 U.S.C. § 651 et seq., as amended, shall not have the*  
15 *cost of collection added to the debt owed and subject to setoff. Such cost of*  
16 *collection shall be paid by the Kansas department for children and*  
17 *families.*

18       **Sec. 5. K.S.A. 75-6209 is hereby amended to read as follows: 75-**  
19 **6209. (a) In accordance with the applicable times under K.S.A. 75-**  
20 **6208 and amendments thereto, the director shall complete the setoff**  
21 **by adding and retaining the collection assistance fee permitted by K.S.A.**  
22 **75-6210, and amendments thereto, and transferring the net proceeds**  
23 **collected for credit or payment and by refunding any outstanding**  
24 **balance to the debtor.**

25       **(b) Upon completing the setoff, the director shall notify the**  
26 **debtor in writing of the action taken along with an accounting of the**  
27 **action taken. If there is an outstanding balance after setoff, the notice**  
28 **under this section shall accompany the balance when refunded.**

29       **(c) When a setoff is completed against earnings of an employee**  
30 **for any pay period and the setoff does not fully liquidate the debt due,**  
31 **further setoff in subsequent pay periods may be made without further**  
32 **certifications or notice to the debtor, except that the director shall**  
33 **notify the debtor in writing of the action taken and give an accounting**  
34 **thereof. The debtor may request an opportunity for hearing in regard**  
35 **to any further setoff in subsequent pay periods by making a written**  
36 **request therefor to the director. Any such request shall not stay future**  
37 **setoffs, but such hearing shall be held within a reasonable time, not to**  
38 **exceed 15 days after the request, unless a longer time has been agreed**  
39 **to by the debtor. Hearings under this subsection shall be conducted in**  
40 **accordance with the provisions of the Kansas administrative**  
41 **procedure act. Orders resulting from hearings under this subsection**  
42 **shall not be subject to administrative review.**

43       **Sec. 6. K.S.A. 2014 Supp. 75-6210 is hereby amended to read as**

1 follows: 75-6210. (a) Upon completion of a setoff transaction, the  
2 director shall transfer the net proceeds collected to the account or  
3 fund of the state agency, foreign state agency or municipality to which  
4 the debt was owed.

5 (b) (1) From the gross proceeds collected by the director through  
6 setoff, the director shall retain a reasonable collection assistance fee in  
7 an amount based on cost, as determined by generally accepted cost  
8 allocation techniques, except that in the case of transactions for  
9 collection of debts arising from the employment security law such fee  
10 shall not exceed \$300 for any transaction. *Except as provided further,*  
11 *the director shall add the collection assistance fee to the debt after the*  
12 *debt is submitted to the director in accordance with K.S.A. 75-6206, and*  
13 *amendments thereto. Any debts due and owing to an individual, the state*  
14 *of Kansas or an agency of another state that are being enforced by the*  
15 *Kansas department for children and families under part D of title IV of the*  
16 *federal social security act, 42 U.S.C. § 651 et seq., as amended, shall not*  
17 *have the collection assistance fee added to the debt owed and subject to*  
18 *setoff, and such fee shall be paid by the Kansas department for children*  
19 *and families.*

20 (2) The director shall retain a reasonable collection assistance fee  
21 from the gross proceeds of collections through setoff on behalf of a  
22 municipality as specified in an agreement entered into pursuant to  
23 K.S.A. 75-6204, and amendments thereto, or foreign state agency in  
24 such amount as specified in the reciprocal agreement entered into  
25 pursuant to K.S.A. 75-6215, and amendments thereto.

26 (3) The collection assistance fee shall be paid as an additional cost  
27 for all debts owed to the court when the court utilizes debt setoff  
28 procedures pursuant to K.S.A. 75-6202 et seq., and amendments  
29 thereto. The collection assistance fee shall be retained from the  
30 amount collected, but shall not be deducted from the debts owed to the  
31 court.

32 (4) The director may credit a portion of the collection assistance  
33 fee to the appropriate account or fund of any other state agency that  
34 has incurred expenses in assisting in the collection of the debt.

35 (5) The amount of the collection assistance fee retained by the  
36 director shall be remitted to the state treasurer in accordance with the  
37 provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt  
38 of each such remittance, the state treasurer shall deposit the entire  
39 amount in the state treasury to the credit of the accounting services  
40 recovery fund.

41 (c) Upon receipt by the state agency, foreign state agency or  
42 municipality of the net proceeds collected, the state agency, foreign  
43 state agency or municipality shall credit the debtor's obligation in the

1 amount of the gross proceeds collected.

2 (d) Except as otherwise prescribed by the director or the  
3 secretary of administration, any state agency, foreign state agency or  
4 municipality which receives any payment from a debtor after  
5 notification to the debtor under K.S.A. 75-6206, and amendments  
6 thereto, other than payments collected pursuant to K.S.A. 44-718, and  
7 amendments thereto, or collected through the federal government or  
8 judicial process, shall remit the collection assistance fee imposed  
9 under subsection (b) to the director which shall be credited to the  
10 accounting services recovery fund. If a state agency fails to remit the  
11 collection assistance fee as required by this subsection, the director  
12 may transfer an amount equal to such collection assistance fee from  
13 the appropriate account or fund of the state agency to the accounting  
14 services recovery fund. If a foreign state agency or municipality fails  
15 to remit the collection assistance fee as required by this subsection, the  
16 director may seek collection of such fee in such manner as may be  
17 allowed by law.

18 (e) In cases involving the collection of debts arising from the  
19 employment security law, the entire amount collected shall be credited  
20 to the employment security fund and the collection assistance fee shall  
21 be transferred from the special employment security fund to the  
22 accounting services recovery fund.

23 ~~Sec. 2.~~ 7. K.S.A. 75-6209 and K.S.A. 2014 Supp. 60-2403 ~~is~~, 75-  
24 719, 75-6202, 75-6204 and 75-6210 are hereby repealed.

25 ~~Sec. 3.~~ 8. This act shall take effect and be in force from and after its  
26 publication in the statute book.