

HOUSE BILL No. 2402

By Committee on Appropriations

3-17

1 AN ACT concerning setoff against debtors of the state; authorizing the
2 director of accounts and reports to enter into agreements with third
3 party vendors; amending K.S.A. 75-6203 and K.S.A. 2016 Supp. 75-
4 6202 and 75-6204 and repealing the existing sections.

5
6 *Be it enacted by the Legislature of the State of Kansas:*

7 Section 1. K.S.A. 2016 Supp. 75-6202 is hereby amended to read as
8 follows: 75-6202. As used in ~~this act~~ *article 62 of chapter 75 of the*
9 *Kansas Statutes Annotated, and amendments thereto:*

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, who
14 is receiving assistance in collecting that support under K.S.A. 39-756 or
15 K.S.A. 2016 Supp. 20-378, and amendments thereto, or under part D of
16 title IV of the federal social security act, 42 U.S.C. § 651 et seq., as
17 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 any
21 state agency, municipality or foreign state agency which has accrued
22 through contract, subrogation, tort, operation of law, or any other legal
23 theory regardless of whether there is an outstanding judgment for that sum.
24 A debt shall not include special assessments except when the owner of the
25 property assessed petitioned for the improvement and any successor in
26 interest of such owner of property;

27 (2) any amount of support due and owing an individual, or an agency
28 of another state, who is receiving assistance in collecting that support
29 under K.S.A. 39-756 or K.S.A. 2016 Supp. 20-378, and amendments
30 thereto, or under part D of title IV of the federal social security act, 42
31 U.S.C. § 651 et seq., as amended, which amount shall be considered a debt
32 due and owing the district court trustee or the Kansas department for
33 children and families for the purposes of this act; or

34 (3) any assessment of court costs, fines, fees, moneys expended by
35 the state in providing counsel and other defense services to indigent
36 defendants or other charges which a district court judgment has ordered to

1 be paid to the court and which remain unpaid in whole or in part, and
2 includes any interest or penalties on such unpaid amounts as provided for
3 in the judgment or by law. Such amount also includes the cost of collection
4 when the collection services of a contracting agent are utilized.

5 (c) "Refund" means any amount of income tax refund due to any
6 person as a result of an overpayment of tax, and for this purpose, a refund
7 due to a husband and wife resulting from a joint return shall be considered
8 to be separately owned by each individual in the proportion of each such
9 spouse's contribution to income, as the term "contribution to income" is
10 defined by rules and regulations of the secretary of revenue.

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

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

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

28 (g) "Director" means the director of accounts and reports of the
29 department of administration.

30 (h) "Municipality" means any municipality as defined by K.S.A. 75-
31 1117, and amendments thereto.

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

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

38 (k) *"Third party vendor" means any person that the director enters*
39 *into an agreement with to execute the collection of a debt as required by*
40 *this act.*

41 Sec. 2. K.S.A. 75-6203 is hereby amended to read as follows: 75-
42 6203. (a) The collection remedy under this act is in addition to and not in
43 substitution for any other remedy available by law.

1 (b) Each state agency, foreign state agency and municipality,
2 whenever possible, shall obtain the full name, social security number,
3 address and any other information required by the director of accounts and
4 reports from any person for whom the state agency, foreign state agency or
5 municipality provides any service or with whom the state agency, foreign
6 state agency or municipality transacts any business and who may become a
7 debtor under this act. *The director shall provide this information to any*
8 *third party vendor for the purpose of assisting in the collection of a debt.*

9 (c) Except for debts for which a voluntary agreement for payment has
10 been entered into and is being complied with or debts for which
11 garnishment or other judicial proceedings are pending and except as
12 otherwise directed by the secretary of administration, the director may
13 require any state agency to certify all debts owed to the state agency or to
14 certify all such debts in specified categories of debts, for setoff under
15 K.S.A. 75-6204, and amendments thereto. Any state agency required to
16 certify debts under this subsection shall give the director all information
17 relating to such debts as may be requested by the director.

18 (d) The secretary of administration as provided in K.S.A. 75-3706,
19 and amendments thereto, may adopt rules and regulations necessary to
20 carry out the provisions of this act.

21 (e) The secretary of revenue may adopt rules and regulations defining
22 the term "contribution of income" for the purposes of this act.

23 Sec. 3. K.S.A. 2016 Supp. 75-6204 is hereby amended to read as
24 follows: 75-6204. (a) Subject to the limitations provided in this act, if a
25 debtor fails to pay *a debt or fails to pay* to the state of Kansas or any state
26 agency, foreign state agency, municipality or the federal department of the
27 treasury an amount owed, the director, *or any third party vendor*, may
28 setoff such amount and a reasonable collection assistance fee determined
29 in accordance with K.S.A. 75-6210, and amendments thereto, against any
30 money held for, or any money owed to, such debtor by the state~~or~~, any
31 state agency *or any third party vendor*.

32 (b) The director may enter into an agreement with a municipality for
33 participation in the setoff program for the purpose of assisting in the
34 collection of a debt~~as defined by K.S.A. 75-6202, and amendments~~
35 ~~thereto~~. The director shall include in any such agreement a provision
36 requiring the municipality to certify that the municipality has made at least
37 three attempts to collect a debt prior to submitting such debt to setoff
38 pursuant to this act.

39 (c) *The director shall enter into an agreement with a third party*
40 *vendor for participation in the setoff program for the purpose of assisting*
41 *in the collection of a debt. Except as provided further, the director shall*
42 *include in any such agreement a provision agreeing to defend, indemnify*
43 *and hold harmless a third party vendor with regard to all claims,*

1 *demands, suits, actions, damages, judgments, costs, charges and expenses,*
2 *including attorney fees, that may be brought or asserted against a third*
3 *party vendor and that arise from the third party vendor's performance of*
4 *an agreement to facilitate the collection of debts. Such agreement shall not*
5 *include damages, costs, charges and expenses, including attorney fees,*
6 *that may result from gross negligence or by willful or wanton acts or*
7 *omissions on the part of the third party vendor. The sole remedy at law for*
8 *persons who claim that moneys collected for a debt were wrongfully*
9 *withheld pursuant to this section by a third party vendor shall be to submit*
10 *an appeal to the department of administration pursuant to K.S.A. 75-6201*
11 *et seq., and amendments thereto.*

12 ~~(e)~~ (d) (1) Except as provided in subsection ~~(e)~~ (d)(2), the director
13 shall add the cost of collection and the debt for a total amount subject to
14 setoff against a debtor.

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

22 Sec. 4. K.S.A. 75-6203 and K.S.A. 2016 Supp. 75-6202 and 75-6204
23 are hereby repealed.

24 Sec. 5. This act shall take effect and be in force from and after its
25 publication in the statute book.