

## HOUSE BILL No. 2392

By Committee on Taxation

3-15

1 AN ACT concerning setoff against certain debtors; relating to federal  
2 department of the treasury, agreements, procedure and fees; amending  
3 K.S.A. 75-6204 and K.S.A. 2010 Supp. 75-6202 and repealing the  
4 existing sections.

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

7 New Section 1. (a) The director may enter into one or more  
8 agreements with the federal department of the treasury or its successor that  
9 provide for offsetting federal and state payments, as authorized by federal  
10 law and K.S.A. 75-6204, and amendments thereto, except that other setoffs  
11 under K.S.A. 75-6201 et seq., and amendments thereto, occur prior to the  
12 setoffs authorized under this section.

13 (b) Any agreement entered into by the director pursuant to subsection  
14 (a) may provide that the federal department of the treasury or its successor  
15 may deduct a fee from each administrative setoff and state payment setoff.  
16 For purposes of this subsection: (1) "Administrative setoff" means any  
17 offset of federal payments to collect state tax and nontax obligations; and

18 (2) "state payment setoff" means any offset of state payments to  
19 collect federal nontax obligations.

20 (c) The director is authorized to deduct a fee in an amount authorized  
21 under subsection (b) of K.S.A 75-6210, and amendments thereto.

22 (d) Notwithstanding any provision of law prohibiting disclosure by  
23 the department of administration of the contents of debtor records or  
24 information, and notwithstanding any confidentiality statute of any state  
25 agency, all information exchanged between the department of  
26 administration, the federal department of the treasury and the debtor  
27 necessary to accomplish and effectuate the intent of this act is lawful.

28 Sec. 2. K.S.A. 2010 Supp. 75-6202 is hereby amended to read as  
29 follows: 75-6202. As used in this act:

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

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

33 (2) owes support to an individual, or an agency of another state, who  
34 is receiving assistance in collecting that support under K.S.A. 39-756, and  
35 amendments thereto, or under part D of title IV of the federal social  
36 security act, (42 U.S.C. § 651 *et seq.*), as amended; or

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

2 (b) "Debt" means:

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

10 (2) any amount of support due and owing an individual, or an agency  
11 of another state, who is receiving assistance in collecting that support  
12 under K.S.A. 39-756, and amendments thereto, or under part D of title IV  
13 of the federal social security act, (42 U.S.C. § 651 *et seq.*), as amended,  
14 which amount shall be considered a debt due and owing the district court  
15 trustee or the department of social and rehabilitation services for the  
16 purposes of this act.

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

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

27 (e) "State agency" means any state office, officer, department, board,  
28 commission, institution, bureau, agency or authority or any division or unit  
29 thereof and any judicial district of this state or the clerk or clerks thereof.  
30 "State agency" also shall include any district court utilizing collection  
31 services pursuant to K.S.A. 75-719, and amendments thereto, to collect  
32 debts owed to such court.

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

36 (g) "Director" means the director of accounts and reports of the  
37 department of administration.

38 (h) "Municipality" means any municipality as defined by K.S.A. 75-  
39 1117, and amendments thereto.

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

42 (j) "Foreign state or foreign state agency" means the states of  
43 Colorado, Missouri, Nebraska, ~~or~~ Oklahoma or any agency of such states,

1 *or the federal department of the treasury*, which has entered into a  
2 reciprocal agreement pursuant to K.S.A. 75-6215 *or section 1*, and  
3 amendments thereto.

4 Sec. 3. K.S.A. 75-6204 is hereby amended to read as follows: 75-  
5 6204. (a) Subject to the limitations provided in this act, if a debtor fails to  
6 pay to the state of Kansas or any state agency, foreign state agency, ~~or a~~  
7 *municipality or the federal department of the treasury* an amount owed,  
8 the director may setoff such amount against any money held for, or any  
9 money owed to, such debtor by the state or any state agency.

10 (b) The director may enter into an agreement with a municipality for  
11 participation in the setoff program for the purpose of assisting in the  
12 collection of a debt as defined by K.S.A. 75-6202, and amendments  
13 thereto. The director shall include in any such agreement a provision  
14 requiring the municipality to certify that the municipality has made at least  
15 three attempts to collect a debt prior to submitting such debt to setoff  
16 pursuant to this act.

17 Sec. 4. K.S.A. 75-6204 and K.S.A. 2010 Supp. 75-6202 are hereby  
18 repealed.

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

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