



H.B. 142

126th General Assembly
(As Introduced)

Reps. Willamowski, C. Evans, McGregor, Seitz, Raga

BILL SUMMARY

- Authorizes the Tax Commissioner to collect from state income tax refunds certain debts owed to courts, counties, municipal corporations, and townships.

CONTENT AND OPERATION

Tax Commissioner authorized to use income tax refunds to satisfy debts owed to courts and local governments

Overview

The bill authorizes the Tax Commissioner to use all or a portion of an individual's income tax refund to satisfy a fine, fee, restitution, or forfeiture owed by the individual to a court, county, municipal corporation, or township. Before a debt can be satisfied from an individual's income tax refund, the debt must remain unpaid for at least 45 days from the date payment was due.

Certification to the Tax Commissioner for collection

(R.C. 5747.124(B))

A court, county, municipal corporation, or township may certify a debt that remains unpaid for at least 45 days to the Tax Commissioner for collection. At least 20 days prior to certification of a debt, the court or local government certifying the debt must notify the debtor in writing of its intent to certify the debt to the Commissioner, the basis of the certification, and the debtor's right to pay the debt. If the debtor does not pay the debt within ten days after receiving the notice or does not file an action contesting the debt and certification,¹ the court or local

¹ The bill provides that except with respect to complaints regarding joint income tax returns (see "**Joint returns**," below), any action contesting the use of an income tax

government may certify the debt to the Commissioner by providing the Commissioner with a description of the debt along with the name, address, and social security number or federal employer identification number of the debtor.

Collection of debts

(R.C. 5747.124(C)(1) and (2))

Upon receiving certification of a debt, the Commissioner must notify the debtor of the amount to be collected by the Commissioner from any income tax refund owed by the state to the debtor. The Commissioner also must notify the debtor of the particular county, court, municipal corporation, or township that certified the debt.

If the amount of debt certified to the Commissioner exceeds a debtor's income tax refund, the Commissioner is permitted to apply the refund in partial satisfaction of the debt. Conversely, if the amount of the refund owed to the debtor exceeds the amount of the debt, the debtor is entitled to that excess.

Refunds first used to satisfy other obligations

(R.C. 5747.12 (not in the bill), 5747.121 (not in the bill), 5747.122 (not in the bill), 5747.123 (not in the bill), and 5747.124(C)(2))

Under continuing law, the Commissioner is required to use income tax refunds to satisfy debts owed to the state, satisfy unpaid child support obligations, recover overpayments of public assistance, and to recover overpaid child support. Under the bill, any reduction of a refund for one of these purposes takes precedence over a reduction to satisfy a debt certified to the Commissioner by a court or local government.

However, the bill specifies that debts certified by courts and local governments take precedence over other refund reductions. For instance, under the bill, refunds must first be used to satisfy debts certified by courts and local governments before they can be contributed to the Natural Areas and Preserves Fund, the Nongame and Endangered Wildlife Fund, or both under the existing income tax refund contribution system. Likewise, refunds must first be used to satisfy certified court and local government debts before they can be credited against tax due in a subsequent year.

refund to pay a debt owed to a local government must be brought by the complainant against the court, county, municipal corporation, or township that certified the debt to the Commissioner for collection (R.C. 5747.124(G)).

Joint returns

(R.C. 5747.124(D))

The bill specifies that in the case of a joint return, only the portion of the refund that the Commissioner determines is due to the debtor may be used to satisfy the debt certified to the Commissioner for collection. A debtor's spouse is permitted to object to the Commissioner's determination of the portion of the refund due to the debtor by filing a complaint with the Commissioner within 21 days after receiving the Commissioner's notification to the debtor that a debt has been certified to the Commissioner for collection (see "Collection of debts," above). The bill requires that the Commissioner afford the spouse an opportunity for a hearing on the complaint. After the hearing, the Commissioner must make a final decision as to what portion of the refund may be applied against the debt.

Settlement

(R.C. 5747.124(C)(1) and (E))

Within 30 days after the end of each calendar quarter, the Commissioner must settle with each court and local government that has certified a debt to the Commissioner for collection. In addition to paying over debts collected by the Commissioner, each settlement must note the opening balance of debts certified to the Commissioner, any additions or deletions from that balance, the amounts of debts collected, and the ending balance at the close of the settlement period.² The bill permits the Commissioner to withhold a percentage of the amounts collected as compensation for administrative costs incurred by the Commissioner.

Tax Commissioner to exercise rulemaking authority

(R.C. 5747.124(F))

The bill requires that the Commissioner establish, by rule, procedures to implement the income tax refund debt collection system created in the bill. The bill provides, further, that if the Commissioner chooses to use a portion of the debts collected by the Commissioner to pay the Commissioner's administrative costs, the Commissioner must establish, by rule, the percentage of each debt that will be withheld to pay those costs.

² *If a debtor pays a debt at any time after the debt is certified to the Commissioner but prior to settlement, the court or local government that certified the debt must immediately notify the Commissioner of the payment (R.C. 5747.124(C)(1)). Presumably, upon receiving notification of the payment, the Commissioner is to discontinue the collection process with respect to that debt.*

Effective date

(Section 2)

The income tax refund debt collection system created in the bill takes effect January 1, 2006.

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	03-22-05	p. 352

H0142-I-126.doc/jc