

Introduced: 2/18/80  
Referred: Judiciary

1 IN THE HOUSE

BY PARR

2 HOUSE BILL NO. 869 am

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to claims of the state; and providing  
7 for an effective date."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 \* Section 1. LEGISLATIVE PURPOSE. The purpose of this Act is to require  
10 departments and agencies of the state to cooperate in identifying debtors who  
11 owe money to the state and who also qualify for payments from the state. It  
12 is the intent of this Act that procedures be established to set off against a  
13 payment from the state the amount of the debt owed to the state.

14 \* Sec. 2. AS 44 is amended by adding a new chapter to read:

15 CHAPTER 78. SETOFF OF CLAIMS OF THE STATE.

16 Sec. 44.78.010. PROCEDURES REQUIRED. Each claimant agency of the  
17 state shall submit claimed debt to the department for collection under  
18 the procedures established in this chapter except when

19 (1) the agency is advised by the attorney general not to  
20 submit a claim because the validity of the claimed debt is in dispute;

21 (2) an alternative remedy is pending and is believed to be  
22 adequate; or

23 (3) the collection attempt would result in a loss of federal  
24 funding.

25 Sec. 44.78.020. IDENTIFYING INFORMATION. A claimant agency shall  
26 obtain the full name, the social security number or other identifying  
27 number when appropriate, the resident address and mailing address, and  
28 any other identifying information required under regulations of the  
29 commissioner from a person for whom the claimant agency provides a

1 service or transacts business and who may become a debtor under this  
2 chapter.

3 Sec. 44.78.030. MINIMUM SUM COLLECTIBLE. A claimant agency may  
4 not use the procedures established under this chapter unless both the  
5 claimed debt and the refund amount to at least \$100.

6 Sec. 44.78.040. COLLECTIONS THROUGH SETOFF. The commissioner  
7 shall render assistance in the collection of a delinquent account or  
8 debt owed to a claimant agency by setting off a refund due the debtor  
9 from the department by the sum certified by the claimant agency as due  
10 and owing.

11 Sec. 44.78.050. PROCEDURE FOR SETOFF. (a) A claimant agency  
12 attempting collection of a claimed debt through setoff shall notify the  
13 commissioner in writing and provide the commissioner with information  
14 adequate to identify the debtor whose refund is sought to be set off.

15 (b) The notice to the commissioner must occur before a date speci-  
16 fied by the commissioner in the year preceding the calendar year during  
17 which the refund is expected to be paid. The notice under (a) of this  
18 section is effective only for a claim against a refund that would be  
19 made in the calendar year after the year in which notice is given to the  
20 commissioner.

21 (c) The commissioner shall determine whether the debtor is likely  
22 to be entitled to a refund of \$100 or more. On determination by the  
23 commissioner that a debtor qualifies for a refund of \$100 or more, the  
24 department shall notify the claimant agency that a refund is pending,  
25 specify its amount, and indicate the address of the debtor reflected on  
26 the income tax return.

27 Sec. 44.78.060. NOTICE OF INTENT TO SET OFF. (a) The claimant  
28 agency, on notification under AS 44.78.050 that a debtor is entitled to  
29 a refund, shall within 10 days send written notice to the debtor of its

1       assertion of a claim against the refund. The claimant agency shall  
2       provide a copy of this notice to the commissioner.

3               (b) If the commissioner receives a copy of the notice sent under  
4       (a) of this section within 30 days of the department's notice to the  
5       claimant agency under AS 44.78.050(c), the commissioner may not issue a  
6       refund to the debtor.

7               (c) The contents of the notice to the debtor shall clearly set out

8                       (1) the basis for the claim of the agency;

9                       (2) the claimant agency's intention to apply the refund  
10       against the claimed debt;

11                      (3) the right of the debtor to give written notice of intent  
12       to contest the validity of the claimed debt at a hearing before the  
13       claimant agency within 30 days of the date of the mailing of the notice;

14                      (4) the mailing address to which the application for the  
15       hearing must be sent; and

16                      (5) the fact that failure to apply for a hearing in writing  
17       within 30 days constitutes a waiver of the opportunity to contest the  
18       claimed debt and a consent to the setoff by default.

19               (d) A written application by the debtor for a hearing is effective  
20       on mailing the application postage prepaid and properly addressed to the  
21       claimant agency.

22               Sec. 44.78.070. HEARING PROCEDURES. (a) If a claimant agency  
23       receives a written application for a hearing under AS 44.78.060, it  
24       shall grant a hearing under the Administrative Procedure Act (AS 44.62)  
25       to determine the validity of the claimed debt. Whether the amount  
26       claimed as due and owing is correct shall also be determined at the  
27       hearing.

28               (b) Efforts to collect the claimed debt shall be deferred pending  
29       a final decision under (a) of this section.

1           Sec. 44.78.080. CERTIFICATION OF DEBT. (a) Within 20 days of a  
2 final determination under AS 44.78.070 favorable to the claimant agency,  
3 the claimant agency shall certify the debt determined to be due and  
4 owing to the commissioner. If no certification is made within the  
5 20-day period, the commissioner may issue the refund.

6           (b) On receipt by the commissioner of the decision under (a) of  
7 this section, the commissioner shall transfer the amounts determined to  
8 be due under the final decision issued under AS 44.78.070 to the claimant  
9 agency and refund any remaining money to the debtor.

10          Sec. 44.78.090. PRIORITIES. Priority in multiple claims to re-  
11 funds allowed to be set off under this chapter shall be in the order in  
12 time a claimant agency has notified the commissioner under AS 44.78.-  
13 050(a). The department has priority over other claimant agencies when  
14 it has a claim against a refund.

15          Sec. 44.78.100. REGULATIONS. The commissioner may adopt regula-  
16 tions under the Administrative Procedure Act (AS 44.62) to implement  
17 this chapter.

18          Sec. 44.78.110. ADDITIONAL REMEDIES. The remedy established under  
19 this chapter is in addition to any other remedy available by law.

20          Sec. 44.78.120. DEFINITIONS. As used in this chapter,

21           (1) "claimant agency" means a department or agency of the  
22 executive or judicial branch of the state government which believes that  
23 a debt is owed to it by the debtor;

24           (2) "claimed debt" means a sum of money due by a certain and  
25 express agreement or by operation of law which a claimant agency indi-  
26 cates is owed to it by the debtor;

27           (3) "commissioner" means the commissioner of revenue;

28           (4) "debtor" means a person owing money or having a delin-  
29 quent account with a claimant agency which obligation has not been

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adjudicated as satisfied by a judgment of court, set aside by a judgment of court, or discharged in bankruptcy;

(5) "department" means the Department of Revenue;

(6) "refund" means a claim for refund under AS 43.20.

\* Sec. 3. This Act takes effect July 1, 1980.