

Introduced: 2/2/81
Referred: Judiciary and
Finance

1 IN THE SENATE

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

2 SENATE BILL NO. 132

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - FIRST 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

10 (1) require departments and agencies of the state to cooperate in
11 identifying debtors who owe money to the state and who also qualify for
12 payments from the state;

13 (2) establish procedures to set off against a payment from the
14 state the amount of a debt owed to the state.

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

16 CHAPTER 78. COLLECTION OF CLAIMS OF THE STATE.

17 Sec. 44.78.010. COLLECTION BY DEPARTMENT OF REVENUE. (a) Each
18 claimant agency of the state shall submit a liquidated debt to the de-
19 partment for collection under the procedures established in this chap-
20 ter unless:

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

23 (2) an alternative remedy is available and is believed by
24 the claimant agency to be more effective; or

25 (3) the collection attempt may result in a loss of federal
26 financial participation in state programs.

27 (b) If the amount of the liquidated debt exceeds any payment due
28 the debtor by the state, the setoff procedures established in this
29 chapter may be used concurrently with other methods for collection of

1 the excess due.

2 Sec. 44.78.020. IDENTIFYING INFORMATION. A claimant agency shall
3 obtain the full name, the social security number, the residence address
4 and mailing address, and any other identifying information required
5 under regulations of the department for a person who may be subject to
6 the collection procedures of this chapter.

7 Sec. 44.78.030. MINIMUM SUM COLLECTIBLE. In collecting a debt, a
8 claimant agency may not use the procedures established under this
9 chapter unless that debt and the payment from the state from which it
10 would be offset is at least \$100.

11 Sec. 44.78.040. COLLECTIONS. The commissioner shall attempt to
12 collect a delinquent account or debt owed to a claimant agency by set-
13 ting off a payment due the debtor from the state or by the use of other
14 collection methods permitted under AS 09.

15 Sec. 44.78.050. PROCEDURE FOR SETOFF. (a) A claimant agency
16 that attempts to collect a liquidated debt by setoff under this chapter
17 shall notify the commissioner in writing and provide the commissioner
18 with the information required under AS 44.78.020.

19 (b) If the commissioner determines that a debtor qualifies for a
20 payment of \$100 or more from the state, the department shall notify the
21 claimant agency in writing that a payment is pending, specify the
22 amount of the payment, and indicate the address of the debtor set out
23 on the invoice, billing, or other document which forms the basis of the
24 debtor's claim for payment from the state. Payment to the debtor may
25 not be made by the Department of Administration until approval is
26 received from the commissioner under AS 44.78.080(a).

27 Sec. 44.78.060. NOTICE OF INTENT TO SET OFF. (a) Upon notifi-
28 cation under AS 44.78.050(b) that a debtor is entitled to a payment,
29 the claimant agency shall within 10 days after receiving the notice

1 send a notice in writing to the debtor of its claim against the pay-
2 ment. The claimant agency shall provide a copy of this notice to the
3 commissioner.

4 (b) If the commissioner receives a copy of the notice sent under
5 (a) of this section within 30 days after the department's notice to the
6 claimant agency under AS 44.78.050(b), the commissioner shall notify
7 the Department of Administration to not issue a payment to the debtor.

8 (c) The contents of the notice to the debtor must clearly set out

9 (1) the basis for the agency's claim;

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

12 (3) the debtor's right to request a hearing before the
13 claimant agency within 30 days after the date of the mailing of the
14 notice;

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

17 (5) the fact that failure to request a hearing in writing
18 within 30 days is a waiver of the opportunity to contest the liquidated
19 debt and is a consent to the setoff or other collection action.

20 (d) A request by the debtor for a hearing is effective when
21 mailed if the postage is prepaid and the request is properly addressed
22 to the claimant agency.

23 Sec. 44.78.070. HEARING PROCEDURES. (a) The claimant agency
24 shall grant a hearing request by a debtor under AS 44.78.060 if the
25 debtor demonstrates that there is a genuine issue with respect to the
26 amount of the debt or the identity of the debtor. An issue may not be
27 considered at this hearing which has been decided at an earlier hearing,
28 or should have been raised at an earlier hearing.

29 (b) Efforts to collect the liquidated debt must be deferred until

1 the agency either denies the debtor's request for a hearing or issues a
2 final decision after a hearing.

3 (c) Except as provided in AS 44.78.080(c), AS 44.62.330 -- 44.-
4 62.640 do not apply to hearings held under this section.

5 Sec. 44.78.080. CERTIFICATION OF DEBT. (a) Within 20 days after
6 expiration of the date for requesting a hearing, denial of a hearing
7 request, or a final determination after hearing favorable to the
8 claimant agency, the claimant agency shall certify to the commissioner
9 the debt determined to be due. If no certification is made within the
10 20-day period, the commissioner shall notify the Department of Admini-
11 stration to issue the payment.

12 (b) When the commissioner receives a certification under (a) of
13 this section, he or she shall transfer the amounts determined to be due
14 under the final decision issued under AS 44.78.070 to the claimant
15 agency and authorize the Department of Administration to pay any re-
16 maining money to the debtor.

17 (c) A final action by the claimant agency under AS 44.78.070 may
18 be appealed under AS 44.62.560 and 44.62.570. However, no stay of the
19 commissioner's action under (b) of this section may be granted. If the
20 claimant agency's action is reversed or modified on appeal, the Depart-
21 ment of Administration shall promptly pay to the debtor any sum due,
22 together with interest computed at the rate of eight percent per year
23 from the date the Department of Revenue transmits the money to the
24 claimant agency.

25 Sec. 44.78.090. PRIORITIES. The priority of multiple claims to
26 money allowed to be set off under this chapter is established by the
27 sequence in which each claimant agency notifies the commissioner under
28 AS 44.78.050(a). The department has priority over other claimant agen-
29 cies if it has a claim against a payment.

1 Sec. 44.78.100. REGULATIONS. The commissioner may adopt regula-
2 tions under the Administrative Procedure Act (AS 44.62) to implement
3 this chapter, including regulations governing hearing procedures under
4 AS 44.78.070 if the claimant agency has not adopted regulations which
5 establish hearing procedures.

6 Sec. 44.78.110. ADDITIONAL REMEDIES; COLLECTION OF JUDGMENTS.

7 (a) The setoff procedure established under this chapter is in addition
8 to any other remedy available by law.

9 (b) The department shall attempt to collect judgment debts under
10 AS 09 if the setoff procedures established in this chapter are inade-
11 quate or if no payment is found to be due under AS 44.78.050(b).

12 Sec. 44.78.120. DEFINITIONS. In this chapter,

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

16 (2) "liquidated debt" means money owed to the state under an
17 express agreement or by operation of law which is determined by a
18 claimant agency to be a valid, enforceable debt after a hearing or by
19 expiration of the time to request a hearing;

20 (3) "commissioner" means the commissioner of revenue or his
21 designee;

22 (4) "debtor" means a person who owes money or who has a de-
23 linquent account with a claimant agency which has not been satisfied by
24 a judgment of a court of competent jurisdiction, set aside by a ju-
25 dgment, or discharged in bankruptcy;

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

27 (6) "payment" means a claim for refund under AS 43.20, a
28 distribution of permanent fund revenues to a debtor that may be pro-
29 vided by law, and a claim for a service, material, lease, rental, or

1 other amount owed to the debtor by the state.

2 * Sec. 3. This Act takes effect July 1, 1981.

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