

ACT 199

H.B. NO. 2241-82

A Bill for an Act Relating to Recovery of Money Owed to the State.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 231, Hawaii Revised Statutes, is amended by adding a new grouping to be appropriately designated and to read as follows:

“RECOVERY OF MONEY OWED TO THE STATE

§231- Purpose. The purpose of sections 231- to 231- is to permit the retention of state income tax refunds for those persons owing a debt to the State.

§231- Definitions. As used in sections 231- to 231- , unless the context otherwise requires:

- (1) “Claimant agency” includes any state agency, board, commission, department, institution, or other state organization, or any subdivision thereof.
- (2) “Debt” includes any liquidated sum exceeding \$25 which is due and owing any claimant agency, regardless of whether there is an outstanding judgment for that sum, and whether the sum has accrued through contract, subrogation, tort, operation of law, or judicial or administrative judgment or order.
- (3) “Debtor” includes any person owing a debt to any claimant agency.
- (4) “Refund” includes any state income tax refund which is or will be due

any debtor, or any other sums due to a debtor from the State.

§231- Setoff against refund. The State, through the department of accounting and general services, upon request of a claimant agency, shall set off any valid debt due and owing a claimant agency by the debtor against any debtor's refund. Any amount of the refund in excess of the amount retained to satisfy the debt shall be refunded to the debtor.

§231- Hearings; appeals. At the time a setoff is identified, the debtor shall be notified by the comptroller, department of accounting and general services, of the State's intention to apply the debtor's debt against the refund. The notice shall state that the debtor within thirty days may request a hearing before the claimant agency to contest the setoff. No issues that have been previously litigated shall be considered at the hearing. Appeals from the hearing allowed under this section shall be in accordance with chapter 91.

§231- Finalization of setoff; credit on debt. Upon completion of the hearing and appeal process set out in section 231- , or upon the debtor's failure to timely request a hearing pursuant to that section, the setoff shall become final. The amount of the setoff after deduction of any charge authorized by section 231- shall be credited by the claimant agency against the debtor's debt.

§231- Charges for setoff; credit to agency. The State may charge the claimant agency for the cost of the setoff; provided that the charges shall not exceed the proceeds of the collection. The State may designate a single percentage to be retained from the proceeds of the setoff as a charge for cost of assistance. The net proceeds of a setoff, after deduction of any charge, shall be credited to the claimant agency's account or fund.

§231- Apportionment of joint refunds. In the case of a setoff against a joint income tax refund, the State may make separate refunds of withheld taxes upon request by a husband or wife who has filed the joint return. The refund payable to each spouse shall be proportioned to the gross earnings of each shown by the information returns filed by the employer or otherwise shown to the satisfaction of the State.

§231- Rules. All state agencies may adopt rules pursuant to chapter 91 for carrying out the purposes of sections 231- to 231- .

§231- Procedure additional. The setoff procedure authorized by sections 231- to 231- is in addition to and not in substitution of any other remedy available by law."

SECTION 2. This Act shall take effect upon its approval.

(Approved June 10, 1982.)