

# The State of South Carolina



## Office of the Attorney General

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September 9, 1993

R. L. McCurdy, Esquire  
Staff Attorney  
South Carolina Court Administration  
P. O. Box 50447  
Columbia, South Carolina 29250

Dear Bob:

In a letter to this Office you questioned whether counties and municipalities may utilize provisions of the Setoff Debt Collection Act, S.C. Code Sections 12-54-410 et seq. to collect delinquent debts owed as the result of charges imposed on individuals by a magistrate's or municipal court. You indicated that the debts may be from unpaid civil filing fees or unpaid fines, fees and assessments for violations of state, county or municipal provisions.

Pursuant to Section 12-54-450 the State Tax Commission

... shall render assistance in the collection of any delinquent account or debt owing to any claimant agency by setting off any refunds due the debtor from the commission by the sum certified by the claimant agency as delinquent debt.

The term "delinquent debt" is defined by Section 12-54-420(4) as

... any liquidated sum due and owing any claimant agency, including court costs, fines, penalties, and interest which have accrued through contract, subrogation, tort, operation of law, or any other legal theory regardless of whether there is an outstanding judgment for that sum which is legally collectible and for which a collection effort has been or is being made.

*Received*

Mr. McCurdy  
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As referenced "court costs", "fines" and "penalties" are specifically referenced. Included in the definition of the term "claimant agency" is a political subdivision, such as a county or municipality. See: Section 12-54-420(1).

Generally, in interpreting a statute the primary purpose is to ascertain the intent of the General Assembly. State v. Martin, 293 S.C. 46, 358 S.E.2d 297 (1987). Moreover, when interpreting a statute, the legislative intent must prevail if it can be reasonably discovered in the language used, which must be construed in light of the intended purpose of the statute. Gambrell v. Travelers Insurance Co., 280 S.C. 69, 310 S.E.2d 814 (1983). It is also a rule of statutory construction that where a statute is clear and unambiguous, there is no basis for construction and the terms of the statute must be given their literal meaning. Duke Power Co. v. S.C. Tax Commission, 292 S.C. 64, 354 S.E.2d 902 (1987).

In the opinion of this Office the Setoff Debt Collection Agency could be utilized to collect delinquent debts resulting from charges such as those referenced above imposed on individuals by a magistrate's or municipal court. Of course, such is a remedy in addition to any other methods presently available.

With kind regards, I am

Very truly yours,



Charles H. Richardson  
Assistant Attorney General

CHR/an

REVIEWED AND APPROVED BY:



Robert D. Cook  
Executive Assistant for Opinions