

2018 Kansas Statutes

75-6207. Hearing procedure; judicial review. (a) If the director receives a timely written request for a hearing under K.S.A. 75-6206, and amendments thereto, the director shall request a presiding officer from the office of administrative hearings who shall hold a hearing in accordance with the provisions of the Kansas administrative procedure act to determine whether the debt claim is valid. Subject to the provisions of subsection (b), the presiding officer shall determine whether the claimed sum asserted as due and owing is correct, and if not, shall order an adjustment to the debt claim which shall be forwarded to the director and to the state agency, foreign state agency or municipality to which the debt is owed. No issue may be considered at the hearing which has been previously litigated and no collateral attack on any judgment shall be permitted at the hearing. The order of the presiding officer shall inform the debtor of the amount determined as due, if any, and that setoff procedures have been ordered to proceed in accordance with this act. If the setoff is to be made against earnings of the debtor, the order shall include a statement that the setoff may be postponed in accordance with K.S.A. 75-6208, and amendments thereto. Orders under this section shall not be subject to administrative review.

(b) In cases where there is only one known present or future payment due from the state to the alleged debtor, the presiding officer may limit the hearing issue to a determination of whether the debt owed the state agency, foreign state agency or municipality is at least equal to the amount of the payment owed to the debtor by the state.

(c) Pending final determination in the order of the presiding officer of the validity of the debt asserted by the state agency, foreign state agency or municipality, no action shall be taken in furtherance of collection through the setoff procedure allowed under this act.

(d) Judicial review of an order under this section shall be in accordance with the provisions of the Kansas judicial review act. In any such review, except as provided in subsection (e), the department of administration and the secretary of administration shall not be named parties to the proceedings.

(e) Parties to an action for review of an order under this section shall be: (1) The debtor; (2) the state agency, foreign state agency or municipality which requested assistance in collecting the debt or which certified the debt; and (3) any party the district court permits to intervene in the action. Applications for a stay or other temporary remedies shall be to the district court.

History: L. 1981, ch. 342, § 7; L. 1982, ch. 376, § 1; L. 1984, ch. 338, § 30; L. 1986, ch. 318, § 140; L. 1988, ch. 356, § 307; L. 1993, ch. 232, § 8; L. 2004, ch. 145, § 35; L. 2010, ch. 17, § 204; July 1.