

By: Representative Watson

To: Ways and Means

HOUSE BILL NO. 1460
(As Passed the House)

1 AN ACT TO AUTHORIZE THE STATE TAX COMMISSION TO OFFSET STATE
2 INCOME TAX REFUNDS TO TAXPAYERS AGAINST THE TAXPAYER'S PAST DUE,
3 LEGALLY ENFORCEABLE FEDERAL INCOME TAX PAYMENTS AND PAY THE AMOUNT
4 OFFSET TO THE FEDERAL GOVERNMENT; TO AUTHORIZE THE STATE TAX
5 COMMISSION TO RECEIVE FROM THE FEDERAL GOVERNMENT AMOUNTS
6 COLLECTED FROM PERSONS OWING PAST DUE, LEGALLY ENFORCEABLE INCOME
7 TAX PAYMENTS TO THE STATE AND APPLY THE AMOUNT RECEIVED TO THE
8 AMOUNT THE PERSON OWES; TO AMEND SECTION 27-7-83, MISSISSIPPI CODE
9 OF 1972, IN CONFORMITY THERETO; AND FOR RELATED PURPOSES.

10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

11 **SECTION 1.** As used in this act:

12 (a) "Debt" means a past due, legally enforceable state
13 or federal income tax obligation, unless otherwise indicated.

14 (b) "Debtor" means a person who owes a state or federal
15 income tax obligation.

16 (c) "Past due, legally enforceable obligation" means a
17 debt resulting from:

18 (i) A judgment rendered by a court of competent
19 jurisdiction which has determined an amount of income tax to be
20 due;

21 (ii) A determination after an administrative
22 hearing which has determined an amount of income tax to be due and
23 which is no longer subject to judicial review; or

24 (iii) An income tax assessment, including
25 self-assessments, which has become final in accordance with law,
26 but which has not been collected.

27 (d) "State" means the State of Mississippi acting
28 through the State Tax Commission.

29 (e) "Federal government" means the United States
30 Department of the Treasury or any agency under its administration.

31 (f) "Tax refund offset" means withholding or reducing a
32 tax refund payment by an amount necessary to satisfy a debt owed
33 by the payee.

34 (g) "Tax refund payment" means any overpayment of taxes
35 to be refunded to the person making the overpayment.

36 **SECTION 2.** (1) The federal government may submit
37 information on any past due, legally enforceable obligation to the
38 State Tax Commission for collection through a tax refund offset.
39 The state may submit information on any past due, legally
40 enforceable obligation to the federal government for collection
41 through a tax refund offset.

42 (2) Upon receiving notice from the federal government that a
43 named person owes a past due, legally enforceable obligation, the
44 State Tax Commission shall:

45 (a) Reduce the amount of any tax refund payment payable
46 to the named person by the amount of the past due, legally
47 enforceable obligation owed the federal government and, if the tax
48 refund exceeds the obligation, remit the excess to the person;

49 (b) Pay the amount by which the refund payment is
50 reduced under paragraph (a) of this subsection to the federal
51 government and notify the federal government of the person's name,
52 taxpayer identification number, address and the amount collected;
53 and

54 (c) Notify the named person that the tax refund payment
55 has been reduced by an amount necessary to satisfy a past due,
56 legally enforceable obligation.

57 (3) Upon receiving from the federal government the amount
58 collected from a person who owes the state a past due, legally
59 enforceable obligation, the State Tax Commission shall apply the
60 amount to the person's state debt and reduce the person's
61 obligation by the amount collected.

62 **SECTION 3.** Section 27-7-83, Mississippi Code of 1972, is
63 amended as follows:

64 27-7-83. (1) Returns and return information filed or
65 furnished under the provisions of this chapter shall be
66 confidential, and except in accordance with proper judicial order,
67 or as otherwise authorized by this section, it shall be unlawful
68 for members of the State Tax Commission or members of the
69 Mississippi Department of Information Technology Services, any
70 deputy, agent, clerk or other officer or employee thereof, or any
71 former employee thereof, to divulge or make known in any manner
72 the amount of income or any particulars set forth or disclosed in
73 any report or return required. The provisions of this section
74 shall apply fully to any federal return, a copy of any portion of
75 a federal return, or any information reflected on a federal return
76 which is attached to or made a part of the state tax return.
77 Likewise, the provisions of this section shall apply to any
78 federal return or portion thereof, or to any federal return
79 information data which is acquired from the Internal Revenue
80 Service for state tax administration purposes pursuant to the
81 Federal-State Exchange Program cited at Section 6103, Federal
82 Internal Revenue Code. The term "proper judicial order" as used
83 in this section shall not include subpoenas or subpoenas duces
84 tecum, but shall include only those orders entered by a court of
85 record in this state after furnishing notice and a hearing to the
86 taxpayer and the State Tax Commission. The court shall not
87 authorize the furnishing of such information unless it is
88 satisfied that the information is needed to pursue pending
89 litigation wherein the return itself is in issue, or the judge is
90 satisfied that the need for furnishing the information outweighs
91 the rights of the taxpayer to have such information secreted.

92 (2) Returns and return information with respect to taxes
93 imposed by this chapter shall be open to inspection by or
94 disclosure to the Commissioner of the Internal Revenue Service of
95 the United States, or the proper officer of any state imposing an
96 income tax similar to that imposed by this chapter, or the

97 authorized representatives of such agencies. Such inspection
98 shall be permitted, or such disclosure made, only upon written
99 request by the head of such agencies, or the district director in
100 the case of the Internal Revenue Service, and only to the
101 representatives of such agencies designated in a written statement
102 to the commissioner as the individuals who are to inspect or to
103 receive the return or return information on behalf of such agency.
104 The commissioner is authorized to enter into agreements with the
105 Internal Revenue Service and with other states for the exchange of
106 returns and return information data, or the disclosure of returns
107 or return information data to such agencies, only to the extent
108 that the statutes of the United States or of such other state, as
109 the case may be, grant substantially similar privileges to the
110 proper officer of this state charged with the administration of
111 the tax laws of this state.

112 (3) (a) The return of a person shall, upon written request,
113 be open to inspection by or disclosure to:

114 (i) In the case of the return of an individual,
115 that individual;

116 (ii) In the case of an income tax return filed
117 jointly, either of the individuals with respect to whom the return
118 is filed;

119 (iii) In the case of the return of a partnership,
120 any person who was a member of such partnership during any part of
121 the period covered by the return;

122 (iv) In the case of the return of a corporation or
123 a subsidiary thereof, any person designated by resolution of its
124 board of directors or other similar governing body, or any officer
125 or employee of such corporation upon written request signed by any
126 principal officer and attested to by the secretary or other
127 officer;

128 (v) In the case of the return of an estate, the
129 administrator, executor or trustee of such estate, and any heir at

130 law, next of kin or beneficiary under the will, of the decedent,
131 but only to the extent that such latter persons have a material
132 interest which will be affected by information contained therein;

133 (vi) In the case of the return of a trust, the
134 trustee or trustees, jointly or separately, and any beneficiary of
135 such trust, but only to the extent that such beneficiary has a
136 material interest which will be affected by information contained
137 therein;

138 (vii) In the case of the return of an individual
139 or a return filed jointly, any claimant agency seeking to collect
140 a debt through the set-off procedure established in Sections
141 27-7-701 through 27-7-713 and Sections 27-7-501 through 27-7-519,
142 from an individual with respect to whom the return is filed.

143 (b) If an individual described in paragraph (a) is
144 legally incompetent, the applicable return shall, upon written
145 request, be open to inspection by or disclosure to the committee,
146 trustee or guardian of his estate.

147 (c) If substantially all of the property of the person
148 with respect to whom the return is filed is in the hands of a
149 trustee in bankruptcy or receiver, such return or returns for
150 prior years of such person shall, upon written request, be open to
151 inspection by or disclosure to such trustee or receiver, but only
152 if the commissioner finds that such receiver or trustee, in his
153 fiduciary capacity, has a material interest which will be affected
154 by information contained therein.

155 (d) Any return to which this section applies shall,
156 upon written request, also be open to inspection by or disclosure
157 to the attorney in fact duly authorized in writing by any of the
158 persons described in paragraph (a) of this subsection to inspect
159 the return or receive the information on his behalf, subject to
160 the conditions provided in paragraph (a).

161 (e) Return information with respect to any taxpayer may
162 be open to inspection by or disclosure to any person authorized by

163 this subsection to inspect any return of such taxpayer if the
164 commissioner determines that such disclosure would not seriously
165 impair state tax administration.

166 (4) The State Auditor and the employees of his office shall
167 have the right to examine only such tax returns as are necessary
168 for auditing the State Tax Commission, and the same prohibitions
169 against disclosure which apply to the State Tax Commission shall
170 apply to the State Auditor and his employees or former employees.

171 (5) Nothing herein shall be construed to prohibit the
172 publication of statistics, so classified as to prevent the
173 identification of particular reports or returns and the items
174 thereof, or the inspection by the Attorney General, or any other
175 attorney representing the state, of the report or return of any
176 taxpayer who shall bring action to set aside the tax thereon, or
177 against whom any action or proceeding has been instituted to
178 recover any tax or penalty imposed.

179 (6) Nothing in this section shall prohibit the chairman of
180 the commission from making available information necessary to
181 recover taxes owing the state pursuant to the authority granted in
182 Section 27-75-16, Mississippi Code of 1972.

183 (7) Reports and returns required under the provisions of
184 this chapter shall be preserved in accordance with approved
185 records control schedules. No records, however, may be destroyed
186 without the approval of the Director of the Department of Archives
187 and History.

188 (8) The commission is authorized to disclose to the Child
189 Support Unit of the Department of Human Services the name,
190 address, social security number, amount of income, source of
191 income and assets for individuals who are delinquent in the
192 payment of any child support as defined in Section 93-11-101,
193 Mississippi Code of 1972.

194 (9) Nothing in this section shall prohibit the commission
195 from exchanging information with the federal government that is

196 necessary to offset income tax refund payments on debts owed to
197 this state or the United States.

198 **SECTION 4.** Section 27-33-31, Mississippi Code of 1972, is
199 amended as follows:

200 27-33-31. (1) It shall be the duty of every person, who is
201 eligible for and desires the homestead exemption provided for in
202 this article, to comply with the following provisions:

203 (a) He shall make written application to the county tax
204 assessor on the prescribed form, on or before the first day of
205 April. Applications not on file on or before April 1 of the
206 current year may not be filed, may not be dated back, may not be
207 accepted by the assessor, may not be allowed by the board of
208 supervisors, and may not be considered by the commission,
209 excepting as provided in * * * this subsection.

210 Any person who has on file with the tax assessor a valid
211 allowed claim for homestead exemption filed on or after January 1,
212 1991, shall not be required to annually thereafter reapply for
213 such claim for exemption but shall be credited with such exemption
214 each year so long as such person is entitled to homestead
215 exemption on the same property and there has been no change in the
216 property description, ownership, use or occupancy since January 1
217 of the preceding year. In the event changes have occurred in the
218 status of the homestead in the property description, ownership,
219 use or occupancy since January 1 of the preceding year, and in the
220 event such person is still eligible for homestead exemption, he
221 shall file a new application and provide all the information
222 required under this section as for the initial application.
223 However, the requirement to file a new application shall not apply
224 to a surviving spouse who is still eligible for homestead
225 exemption. If the deceased spouse qualified for the exemption
226 provided in Section 27-33-67(2), but the surviving spouse does not
227 qualify for such exemption, the surviving spouse must file a new
228 application for homestead exemption within One Hundred Twenty

229 (120) days after the date that the taxes for the year for which
230 the exemption is sought are due and payable, which extension of
231 time to file for homestead exemption shall apply only to the first
232 year in which taxes are due and payable following the deceased
233 spouse's death.

234 (b) If a deceased spouse qualified for the exemption
235 provided for under Section 27-33-67(2) for taxes that were due and
236 payable on February 1, 2004, but the surviving spouse did not
237 qualify for such exemption, the surviving spouse shall have until
238 June 1, 2004, to file a new application for homestead exemption,
239 and the tax collector, if he finds that such person would have
240 otherwise qualified for homestead exemption for the tax year 2003
241 except for having failed to timely file a new application, shall
242 refund to such person the amount of taxes collected from such
243 person for the tax year 2003 that exceeds the amount of taxes that
244 would have been due and payable had such person timely filed for
245 homestead exemption.

246 (c) In cases where the Governor declares by written
247 proclamation that the courthouse or other place that the tax
248 assessor's office may be located is damaged to such an extent that
249 it is not possible to accept applications for homestead exemption,
250 then the Governor may extend the period for filing by a period not
251 to exceed thirty (30) days.

252 (d) He shall make the application in quadruplicate.

253 (e) He shall make separate applications, as provided
254 above, to the respective assessors if the property claimed for
255 exemption lies in two (2) counties, first with the assessor of the
256 county of residence, and then with the assessor of the other
257 county, submitting at the same time two (2) copies of the first
258 application, certified by the chancery clerk as specified by
259 Section 27-33-23(f).

260 (f) He shall deliver to the assessor the application
261 marked "original," the copy marked "duplicate," and the copy
262 marked "triplicate."

263 (g) He shall retain the copy marked "quadruplicate" as
264 evidence that the application was made and filed, which
265 quadruplicate may be filed with the board if the original and
266 duplicate are lost; and certified copies of the quadruplicate may
267 be used when so ordered by the board, not later than the meeting
268 of the board held in March of the year following the year in which
269 the application was executed, under such rules and regulations as
270 the commission shall prescribe.

271 (h) He shall state on the application the name of the
272 owner of the property, and the number and status of all occupants
273 of the home, other than the owner's family.

274 (i) He shall state the full name of the applicant,
275 whether the same as the name of the owner or not.

276 (j) He shall give a parcel number, which shall clearly
277 locate and identify it, and state the acreage contained, as
278 prescribed in Section 27-33-27.

279 (k) He shall state the kind of title, or ownership
280 right held, from whom and how obtained, and the names of all
281 present owners.

282 (l) He shall state the number of book and page where
283 the deed, or other conveyance or evidence of ownership, is of
284 public record, or attach to both the original and duplicate
285 application a certified copy of the conveyance by which title is
286 claimed, or copies supported by affidavit of the holder, or by one
287 who has seen and verified the original; or such other evidence of
288 title as may be required by the commission; and the instrument by
289 which title is claimed shall be placed of record, if it may be
290 admitted to record.

291 (m) He shall state the price for which the property was
292 sold and conveyed to the owner, the amount of the unpaid

293 principal, if any, and the terms of payment thereof, if it was
294 acquired by the owner after July 1, 1938, as evidenced by the date
295 of the acknowledgment of the conveyance. The purchase price and
296 the amount of unpaid principal shall not be required more than one
297 (1) time.

298 (n) He shall state if any part of the dwelling or land
299 is rented or leased, and the kind of business conducted in the
300 home or on the land.

301 (o) He shall furnish all the information required by
302 the application, which must be true and correct, and he must
303 supply it in the event he does not prepare the application with
304 his own hand. Except as otherwise provided in Section
305 27-33-33(2), the information given on the application must not be
306 made or inserted by the assessor or by anyone, except as furnished
307 by the applicant.

308 (p) He shall make the original application in person or
309 in such manner as may be provided under the rules and regulations
310 of the commission; or it may be made by his agent or attorney,
311 duly constituted in writing, and a copy of such written authority,
312 duly sworn to and acknowledged or attested by two (2) competent
313 witnesses shall be attached to each the original, the duplicate,
314 and the triplicate application for homestead exemption; but the
315 husband or wife may sign for the other if living in the same
316 dwelling.

317 (q) He shall make affidavit to the application and to
318 the truth of all statements made and answers to questions
319 contained therein, and the oath may be administered by the tax
320 assessor, a member of the board of supervisors, or any other
321 officer authorized by law to take acknowledgments.

322 (r) He shall give such other pertinent information as
323 may be required by the commission; and he shall promptly give any
324 information requested, and answer any question propounded by the
325 assessor or member of the board of supervisors.

326 (s) When an applicant has filed a timely application,
327 but has failed to make known his eligibility for an additional
328 exemption as provided for in Section 27-33-67(2), then an
329 application for additional homestead exemption may be filed under
330 such rules and regulations as the commission shall prescribe.

331 (2) The board of supervisors may authorize a charge of Fifty
332 Cents (50¢) per subsequent annual renewal application, which is
333 returned by the applicant by mail, to be used toward defraying the
334 expense of the mailing process of the subsequent annual renewal
335 application. The charge provided for herein shall not be assessed
336 against any person returning the subsequent annual renewal
337 application in person.

338 (3) In addition to any other fine, imprisonment or sentence
339 which may be imposed for violation of the Mississippi Homestead
340 Exemption Law of 1946, any person who violates such law through
341 fraudulent application or by willful failure to notify the tax
342 assessor of changes in the status of the homestead, when required
343 to do so under subsection (1)(a) of this section, shall be guilty
344 of a felony and upon conviction may be punished by a fine of not
345 more than Five Thousand Dollars (\$5,000.00) or by imprisonment for
346 not more than two (2) years, or both.

347 **SECTION 5.** This act shall take effect and be in force from
348 and after its passage.