

By: Senator(s) Dawkins

To: Public Health and
Welfare; Judiciary, Division
A

SENATE BILL NO. 2388

1 AN ACT TO PROVIDE CERTAIN CONDITIONS ON THE COLLECTION OF
2 DEBT BY COLLECTION AGENTS FOR LICENSED HOSPITALS FOR THE COST OF
3 PROVIDING SERVICES TO UNINSURED INDIVIDUALS; TO REQUIRE CERTAIN
4 NOTICES TO BE ISSUED BY SUCH HOSPITAL COLLECTION AGENCIES; TO
5 REQUIRE CERTAIN ANNUAL REPORTS TO BE DEVELOPED BY HOSPITALS
6 REGARDING DEBT COLLECTION AND FILED WITH THE STATE DEPARTMENT OF
7 HEALTH; TO AMEND SECTION 75-17-7, MISSISSIPPI CODE OF 1972, TO
8 PROVIDE THAT IN THE CASE OF DEBT ARISING OUT OF HOSPITAL SERVICES,
9 PREJUDGMENT AND POSTJUDGMENT INTEREST IS DISCRETIONARY WITH THE
10 COURT; TO AMEND SECTION 85-3-21, MISSISSIPPI CODE OF 1972, TO
11 PROVIDE A HOMESTEAD EXEMPTION FOR ANY MONEY JUDGMENT ARISING OUT
12 OF SERVICES PROVIDED AT A HOSPITAL; TO AMEND SECTION 85-3-1,
13 MISSISSIPPI CODE OF 1972, TO PROVIDE A TANGIBLE PROPERTY EXEMPTION
14 FOR ANY MONEY JUDGMENT ARISING OUT OF SERVICES PROVIDED AT A
15 HOSPITAL; AND FOR RELATED PURPOSES.

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

17 **SECTION 1.** (1) As used in this section:

18 (a) "Cost of providing services" means a hospital's
19 published charges at the time of billing, multiplied by the
20 hospital's most recent relationship of costs to charges as taken
21 from the hospital's most recently available annual financial
22 filing with the State Department of Health.

23 (b) "Hospital" means an institution licensed by the
24 State Department of Health pursuant to Sections 41-9-1 through
25 41-9-35.

26 (c) "Poverty income guidelines" means the poverty
27 income guidelines issued from time to time by the United States
28 Department of Health and Human Services.

29 (d) "Uninsured patient" means any person who is liable
30 for one or more hospital charges whose income is at or below two
31 hundred fifty percent (250%) of the poverty income guidelines who
32 (i) has applied and been denied eligibility for any medical or
33 health care coverage provided under the Medicaid program due to

34 failure to satisfy income or other eligibility requirements, and
35 (ii) is not eligible for coverage for hospital services under the
36 Medicare program, or under any Medicaid or health insurance
37 program of any other nation, state, territory or commonwealth, or
38 under any other governmental or privately sponsored health or
39 accident insurance or benefit program, including, but not limited
40 to, workers' compensation and awards, settlements or judgments
41 arising from claims, suits or proceedings involving motor vehicle
42 accidents or alleged negligence.

43 (2) No hospital that has provided health care services to an
44 uninsured patient may collect from the uninsured patient more than
45 the cost of providing services.

46 (3) No hospital shall refer to a collection agent or
47 initiate an action against an individual patient or such patient's
48 estate to collect fees arising from care provided at a hospital on
49 or after October 1, 2004, unless the hospital has made a
50 determination that such individual is an uninsured patient, as
51 defined in subsection (1) of this section, and is not eligible for
52 any free or reduced price hospital medical services. Nothing in
53 this section shall affect a hospital's ability to initiate an
54 action against an individual patient or such patient's estate to
55 collect coinsurance, deductibles or fees arising from care
56 provided at a hospital where such coinsurance, deductibles or fees
57 may be eligible for reimbursement through awards, settlements or
58 judgments arising from claims, suits or proceedings. In addition,
59 nothing in this section shall affect a hospital's ability to
60 initiate an action against an individual patient or such patient's
61 estate where payment or reimbursement has been made, or likely is
62 to be made, directly to the patient.

63 (4) Each collection agent engaged in collecting a debt from
64 a patient arising from services provided at a hospital shall
65 provide written notice to such patient as to whether the hospital
66 deems the patient an insured patient or an uninsured patient as

67 defined in subsection (1) of this section and the reasons for such
68 determination.

69 (5) If, at any point in the debt collection process, whether
70 before or after the entry of judgment, a hospital, a consumer
71 collection agency acting on behalf of the hospital, an attorney
72 representing the hospital or any employee or agent of the hospital
73 becomes aware that a debtor from whom the hospital is seeking
74 payment for services rendered receives information that the debtor
75 is eligible for free or reduced price hospital services, or any
76 other program which would result in the elimination of liability
77 for the debt or reduction in the amount of such liability, the
78 hospital, collection agency, attorney, employee or agent shall
79 promptly discontinue collection efforts and refer the collection
80 file to the hospital for determination of such eligibility. The
81 collection effort shall not resume until such determination is
82 made.

83 (6) On or before January 1, 2005, and annually thereafter,
84 each hospital shall file with the State Department of Health a
85 debt collection report that includes (a) whether the hospital uses
86 a collection agent to assist with debt collection, (b) the name of
87 any collection agent used, (c) the hospital's processes and
88 policies for assigning a debt to a collection agent and for
89 compensating such collection agent for services rendered, and (d)
90 the recovery rate on accounts assigned to collection agents,
91 exclusive of Medicare accounts, in the most recent hospital fiscal
92 year.

93 **SECTION 2.** Section 75-17-7, Mississippi Code of 1972, is
94 amended as follows:

95 75-17-7. All judgments or decrees founded on any sale or
96 contract shall bear interest at the same rate as the contract
97 evidencing the debt on which the judgment or decree was rendered.
98 All other judgments or decrees shall bear interest at a per annum
99 rate set by the judge hearing the complaint from a date determined

100 by such judge to be fair but in no event prior to the filing of
101 the complaint. In the case of a debt arising out of services
102 provided at a hospital, prejudgment and postjudgment interest
103 shall be discretionary with the court, and in no event shall be
104 more than five percent (5%).

105 **SECTION 3.** Section 85-3-21, Mississippi Code of 1972, is
106 amended as follows:

107 85-3-21. Every citizen of this state, male or female, being
108 a householder shall be entitled to hold exempt from seizure or
109 sale, under execution or attachment, the land and buildings owned
110 and occupied as a residence by him, or her, but the quantity of
111 land shall not exceed one hundred sixty (160) acres, nor the value
112 thereof, inclusive of improvements, save as hereinafter provided,
113 the sum of Seventy-five Thousand Dollars (\$75,000.00), or in the
114 case of a money judgment arising out of services provided at a
115 hospital, to the value of One Hundred Fifty Thousand Dollars
116 (\$150,000.00); provided, however, that in determining this value,
117 existing encumbrances on such land and buildings, including taxes
118 and all other liens, shall first be deducted from the actual value
119 of such land and buildings. But husband or wife, widower or
120 widow, over sixty (60) years of age, who has been an exemptionist
121 under this section, shall not be deprived of such exemption
122 because of not residing therein.

123 **SECTION 4.** Section 85-3-1, Mississippi Code of 1972, is
124 amended as follows:

125 85-3-1. There shall be exempt from seizure under execution
126 or attachment:

127 (a) Tangible personal property of the following kinds
128 selected by the debtor, not exceeding Ten Thousand Dollars
129 (\$10,000.00) in cumulative value, or in the case of a money
130 judgment arising out of services provided at a hospital, not
131 exceeding Twenty Thousand Dollars (\$20,000.00):

- 132 (i) Household goods, wearing apparel, books,
133 animals or crops;
134 (ii) Motor vehicles;
135 (iii) Implements, professional books or tools of
136 the trade;
137 (iv) Cash on hand;
138 (v) Professionally prescribed health aids;
139 (vi) Any item of tangible personal property worth
140 less than Two Hundred Dollars (\$200.00).

141 Household goods, as used in this paragraph (a), means
142 clothing, furniture, appliances, one (1) radio and one (1)
143 television, one (1) firearm, one (1) lawnmower, linens, china,
144 crockery, kitchenware, and personal effects (including wedding
145 rings) of the debtor and his dependents; however, works of art,
146 electronic entertainment equipment (except one (1) television and
147 one (1) radio), jewelry (other than wedding rings), and items
148 acquired as antiques are not included within the scope of the term
149 "household goods." This paragraph (a) shall not apply to distress
150 warrants issued for collection of taxes due the state or to wages
151 described in Section 85-3-4.

152 (b) (i) The proceeds of insurance on property, real
153 and personal, exempt from execution or attachment, and the
154 proceeds of the sale of such property.

155 (ii) Income from disability insurance.

156 (c) All property, real, personal and mixed, for the
157 collection or enforcement of any order or judgment, in whole or in
158 part, issued by any court for civil or criminal contempt of said
159 court; expressly excepted herefrom are such orders or judgments
160 for the payment of alimony, separate maintenance and child support
161 actions.

162 (d) All property in this state, real, personal and
163 mixed, for the satisfaction of a judgment or claim in favor of
164 another state or political subdivision of another state for

165 failure to pay that state's or that political subdivision's income
166 tax on benefits received from a pension or other retirement plan.
167 As used in this paragraph (d), "pension or other retirement plan"
168 includes:

169 (i) An annuity, pension, or profit-sharing or
170 stock bonus or similar plan established to provide retirement
171 benefits for an officer or employee of a public or private
172 employer or for a self-employed individual;

173 (ii) An annuity, pension, or military retirement
174 pay plan or other retirement plan administered by the United
175 States; and

176 (iii) An individual retirement account.

177 (e) One (1) mobile home, trailer, manufactured housing,
178 or similar type dwelling owned and occupied as the primary
179 residence by the debtor, not exceeding a value of Twenty Thousand
180 Dollars (\$20,000.00); in determining this value, existing
181 encumbrances on said dwelling, including taxes and all other
182 liens, shall first be deducted from the actual value of said
183 dwelling. A debtor is not entitled to the exemption of a mobile
184 home as personal property who claims a homestead exemption under
185 Section 85-3-21, and the exemption shall not apply to collection
186 of delinquent taxes under Sections 27-41-101 through 27-41-109.

187 (f) Assets held in, or monies payable to the
188 participant or beneficiary from, whether vested or not, (i) a
189 pension, profit-sharing, stock bonus or similar plan or contract
190 established to provide retirement benefits for the participant or
191 beneficiary and qualified under Section 401(a), 403(a), or 403(b)
192 of the Internal Revenue Code (or corresponding provisions of any
193 successor law), including a retirement plan for self-employed
194 individuals qualified under one of such enumerated sections, (ii)
195 an eligible deferred compensation plan described in Section 457(b)
196 of the Internal Revenue Code (or corresponding provisions of any
197 successor law) or (iii) an individual retirement account or an

198 individual retirement annuity within the meaning of Section 408 of
199 the Internal Revenue Code (or corresponding provisions of any
200 successor law), including a simplified employee pension plan.

201 (g) Nothing in this section shall in any way affect the
202 rights or remedies of the holder or owner of a statutory lien or
203 voluntary security interest.

204 **SECTION 5.** This act shall take effect and be in force from
205 and after July 1, 2004.