

By: Senator(s) Doty

To: Finance

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 2608

1 AN ACT TO AUTHORIZE A PROCEDURE TO ALLOW PUBLIC HOSPITALS
2 LOCATED IN MISSISSIPPI TO COLLECT CERTAIN DEBTS THROUGH A SETOFF
3 AGAINST INCOME TAX REFUNDS OWED THE DEBTOR; TO PROVIDE FOR HEARING
4 AND APPEALS IN CONTESTED CASES; TO PROVIDE THAT SUCH HEARING AND
5 APPEALS SHALL ONLY CONSIDER MISTAKES OF FACT; TO AUTHORIZE THE
6 DEPARTMENT OF REVENUE TO TRANSFER THE INCOME TAX REFUNDS OF A
7 DEBTOR TO A CLAIMANT HOSPITAL FOR THE PURPOSE OF SATISFYING SUCH
8 DEBTS; TO AMEND SECTION 27-7-83, MISSISSIPPI CODE OF 1972, IN
9 CONFORMITY THERETO; AND FOR RELATED PURPOSES.

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

11 **SECTION 1.** As used in Sections 1 through 7 of this act:

12 (a) "Claimant" means the board of trustees or governing
13 authority of a public hospital located in the State of
14 Mississippi.

15 (b) "Debtor" means any individual owing money to a
16 hospital for medical services or having a delinquent account with
17 a hospital for medical services, which obligation has not been
18 adjudicated satisfied by court order, set aside by court order, or
19 discharged in bankruptcy.

20 (c) "Debt" means any liquidated sum due and owing any
21 hospital for medical services rendered by a claimant's hospital



22 which has been reduced to a final judgment by a court of competent
23 jurisdiction.

24 (d) "Department" means the Department of Revenue of the
25 State of Mississippi.

26 (e) "Hospital" shall have the meaning ascribed to such
27 term in Section 41-9-3.

28 (f) "Refund" means the Mississippi income tax refund
29 which the department determines to be due any individual taxpayer;
30 however, the term shall not include any overpayment to be applied
31 to next year estimated tax account as indicated by the taxpayer's
32 Mississippi resident individual income tax return.

33 **SECTION 2.** The collection remedy authorized by Sections 1
34 through 7 of this act:

35 (a) Is in addition to and not in substitution for any
36 other remedy available by law; and

37 (b) Shall not affect the priority afforded to the
38 enforcement of liens or judgments as otherwise provided by law.

39 **SECTION 3.** (1) A claimant may submit debts in excess of One
40 Hundred Dollars (\$100.00) owed to its hospital to the department
41 for collection through setoff, under the procedure established by
42 Sections 1 through 7 of this act, except in cases where the
43 validity of the debt is legitimately in dispute, an alternate
44 means of collection is pending and believed to be adequate, or
45 such collection would result in a loss of federal funds or federal
46 assistance.



47 (2) Upon the request of a claimant, the department shall
48 setoff any refund against the sum certified by the claimant as
49 provided in Sections 1 through 7 of this act; however, claims for
50 overdue support for a child shall take priority over claims made
51 under Sections 1 through 7 of this act.

52 **SECTION 4.** (1) Within the time frame specified by the
53 department, a claimant seeking to collect a debt through setoff
54 shall supply the information necessary to identify each debtor
55 whose refund is sought to be set off and certify the amount of
56 debt or debts owed by each debtor.

57 (2) If a debtor identified by a claimant is determined by
58 the department to be entitled to a refund of at least One Hundred
59 Dollars (\$100.00), the department shall transfer an amount equal
60 to the refund owed, not to exceed the amount of the claimed debt
61 certified, to the claimant minus the amount claimed by the
62 department as a collection fee. The department shall retain ten
63 percent (10%) of the claimed debt as a collection fee. When the
64 income tax refund owed exceeds the claimed debt, the department
65 shall send the excess amount to the debtor within a reasonable
66 time after the excess is determined.

67 (3) At the time of the transfer of funds to a claimant
68 pursuant to subsection (2) of this section, the department shall
69 notify the taxpayer or taxpayers whose refund is sought to be
70 setoff that the transfer has been made. The notice shall clearly
71 set forth the name of the debtor, the manner in which the debt



72 arose, the amount of the debt, the transfer of funds to the
73 claimant pursuant to subsection (2) of this section and the
74 intention to setoff the refund against the debt, the amount of the
75 refund in excess of the claimed debt, the taxpayer's opportunity
76 to give written notice to contest the setoff within thirty (30)
77 days of the date of mailing of the notice, the name and mailing
78 address of the claimant to which the application for such a
79 hearing must be sent, and the fact that the failure to apply for
80 such a hearing, in writing, within the thirty-day period will be
81 deemed a waiver of the opportunity to contest the setoff. The
82 setoff may be contested only on grounds of a mistake of fact.

83 (4) Upon receipt of funds transferred from the department
84 pursuant to subsection (2) of this section, the claimant shall
85 deposit and hold the funds in an escrow account until the hearing
86 is waived or a decision pursuant of a hearing is finalized.

87 **SECTION 5.** (1) When the claimant receives a protest or
88 application in writing from a taxpayer within thirty (30) days of
89 the notice issued by the department, the claimant shall set a date
90 to hear the protest and give notice to the taxpayer by registered
91 or certified mail of the date so set. The time and place of the
92 hearing shall be designated in the notice and the date set shall
93 not be less than fifteen (15) days from the date of the notice.
94 If, at the hearing, a mistake of fact is found to have been made,
95 an adjustment to the claim may be made. The claimant shall give



96 notice to the debtor of its final determination as provided in
97 subsection (3) of this section.

98 (2) No issues shall be reconsidered at the hearing which
99 have been previously litigated.

100 (3) If any debtor is dissatisfied with the final
101 determination made at the hearing by the claimant, he may appeal
102 the final determination to the circuit court of the county in
103 which the claimant hospital is located by filing notice of appeal
104 with the administrative head of the claimant and with the clerk of
105 the circuit court of the county to which the appeal shall be taken
106 within thirty (30) days from the date notice of final
107 determination was given by the claimant.

108 **SECTION 6.** (1) Upon final determination by means of a
109 hearing that no mistake of fact has been made or by the taxpayer's
110 default through failure to comply with timely request for review,
111 the claimant shall remove the amount of the debt due and owing
112 from the escrow account and credit that amount to the debtor's
113 obligation.

114 (2) Upon transfer of the debt due and owing from the escrow
115 account to the credit of the debtor's account, the claimant shall
116 notify the debtor in writing of the finalization of the setoff.
117 The notice shall include a final accounting of the refund which
118 was setoff, including the amount of the refund to which the debtor
119 was entitled prior to the setoff, the amount of the debt due and
120 owing, the amount of the department's collection fee, the amount



121 of the refund in excess of the debt which was returned to the
122 debtor by the department, and the amount of the funds transferred
123 to the claimant in excess of the debt due and owing. At that
124 time, the claimant shall refund to the debtor any amount that was
125 transferred to it by the department in excess of the amount of
126 debt, if any.

127 **SECTION 7.** (1) Notwithstanding the provisions that prohibit
128 disclosure by the department of the contents of taxpayer records
129 or information and notwithstanding any other confidentiality
130 statute, the department may provide to a claimant all information
131 necessary to accomplish and effectuate the intent of Sections 1
132 through 7 of this act.

133 (2) The information obtained by a claimant from the
134 department in accordance with the provisions of Sections 1 through
135 7 of this act shall retain its confidentiality and shall only be
136 used by a claimant in the pursuit of its debt collection duties
137 and practices; and any employee or prior employee of any claimant
138 who unlawfully discloses any such information for any other
139 purpose, except as specifically authorized by law, shall be
140 subject to the same penalties specified by law for unauthorized
141 disclosure of confidential information by an agent or employee of
142 the department.

143 **SECTION 8.** Section 27-7-83, Mississippi Code of 1972, is
144 amended as follows:



145 27-7-83. (1) Returns and return information filed or
146 furnished under the provisions of this chapter shall be
147 confidential, and except in accordance with proper judicial order,
148 as otherwise authorized by this section or as authorized in
149 Section 27-4-3, it shall be unlawful for the Commissioner of
150 Revenue or any deputy, agent, clerk or other officer or employee
151 of the Department of Revenue or the Mississippi Department of
152 Information Technology Services, or any former employee thereof,
153 to divulge or make known in any manner the amount of income or any
154 particulars set forth or disclosed in any report or return
155 required. The provisions of this section shall apply fully to any
156 federal return, a copy of any portion of a federal return, or any
157 information reflected on a federal return which is attached to or
158 made a part of the state tax return. Likewise, the provisions of
159 this section shall apply to any federal return or portion thereof,
160 or to any federal return information data which is acquired from
161 the Internal Revenue Service for state tax administration purposes
162 pursuant to the Federal-State Exchange Program cited at Section
163 6103, Federal Internal Revenue Code. The term "proper judicial
164 order" as used in this section shall not include subpoenas or
165 subpoenas duces tecum, but shall include only those orders entered
166 by a court of record in this state after furnishing notice and a
167 hearing to the taxpayer and the Department of Revenue. The court
168 shall not authorize the furnishing of such information unless it
169 is satisfied that the information is needed to pursue pending



170 litigation wherein the return itself is in issue, or the judge is
171 satisfied that the need for furnishing the information outweighs
172 the rights of the taxpayer to have such information secreted.

173 (2) Returns and return information with respect to taxes
174 imposed by this chapter shall be open to inspection by or
175 disclosure to the Commissioner of the Internal Revenue Service of
176 the United States, or the proper officer of any state imposing an
177 income tax similar to that imposed by this chapter, or the
178 authorized representatives of such agencies. Such inspection
179 shall be permitted, or such disclosure made, only upon written
180 request by the head of such agencies, or the district director in
181 the case of the Internal Revenue Service, and only to the
182 representatives of such agencies designated in a written statement
183 to the Commissioner of Revenue as the individuals who are to
184 inspect or to receive the return or return information on behalf
185 of such agency. The Commissioner of Revenue is authorized to
186 enter into agreements with the Internal Revenue Service and with
187 other states for the exchange of returns and return information
188 data, or the disclosure of returns or return information data to
189 such agencies, only to the extent that the statutes of the United
190 States or of such other state, as the case may be, grant
191 substantially similar privileges to the proper officer of this
192 state charged with the administration of the tax laws of this
193 state.



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

196 (i) In the case of the return of an individual,
197 that individual;

198 (ii) In the case of an income tax return filed
199 jointly, either of the individuals with respect to whom the return
200 is filed;

201 (iii) In the case of the return of a partnership,
202 any person who was a member of such partnership during any part of
203 the period covered by the return;

204 (iv) In the case of the return of a corporation or
205 a subsidiary thereof, any person designated by resolution of its
206 board of directors or other similar governing body, or any officer
207 or employee of such corporation upon written request signed by any
208 principal officer and attested to by the secretary or other
209 officer;

210 (v) In the case of the return of an estate, the
211 administrator, executor or trustee of such estate, and any heir at
212 law, next of kin or beneficiary under the will, of the decedent,
213 but only to the extent that such latter persons have a material
214 interest which will be affected by information contained therein;

215 (vi) In the case of the return of a trust, the
216 trustee or trustees, jointly or separately, and any beneficiary of
217 such trust, but only to the extent that such beneficiary has a



218 material interest which will be affected by information contained
219 therein;

220 (vii) In the case of the return of an individual
221 or a return filed jointly, any claimant agency seeking to collect
222 a debt through the setoff procedure established in Sections
223 27-7-701 through 27-7-713 * * *, Sections 27-7-501 through
224 27-7-519, and Sections 1 through 7 of this act, from an individual
225 with respect to whom the return is filed.

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

230 (c) If substantially all of the property of the person
231 with respect to whom the return is filed is in the hands of a
232 trustee in bankruptcy or receiver, such return or returns for
233 prior years of such person shall, upon written request, be open to
234 inspection by or disclosure to such trustee or receiver, but only
235 if the Commissioner of Revenue finds that such receiver or
236 trustee, in his fiduciary capacity, has a material interest which
237 will be affected by information contained therein.

238 (d) Any return to which this section applies shall,
239 upon written request, also be open to inspection by or disclosure
240 to the attorney-in-fact duly authorized in writing by any of the
241 persons described in paragraph (a) of this subsection to inspect



242 the return or receive the information on his behalf, subject to
243 the conditions provided in paragraph (a).

244 (e) Return information with respect to any taxpayer may
245 be open to inspection by or disclosure to any person authorized by
246 this subsection to inspect any return of such taxpayer if the
247 Commissioner of Revenue determines that such disclosure would not
248 seriously impair state tax administration.

249 (4) The State Auditor and the employees of his office shall
250 have the right to examine only such tax returns as are necessary
251 for auditing the Department of Revenue, and the same prohibitions
252 against disclosure which apply to the Department of Revenue shall
253 apply to the State Auditor and his employees or former employees.

254 (5) Officers and employees of the Mississippi Development
255 Authority who execute a confidentiality agreement with the
256 Department of Revenue shall be authorized to discuss and examine
257 information to which this section applies at the offices of the
258 Mississippi Department of Revenue. This disclosure is limited to
259 information necessary to properly administer the programs under
260 the jurisdiction of the Mississippi Development Authority. The
261 Department of Revenue is authorized to disclose to officers and
262 employees of the Mississippi Development Authority who execute a
263 confidentiality agreement the information necessary under the
264 circumstances. The same prohibitions against disclosure which
265 apply to the Department of Revenue shall apply to the officers or
266 employees of the Mississippi Development Authority.



267 (6) Information required by the University Research Center
268 to prepare the analyses required by Sections 57-13-101 through
269 57-13-109 shall be furnished to the University Research Center
270 upon request. It shall be unlawful for any officer or employee of
271 the University Research Center to divulge or make known in any
272 manner the amount of income or any particulars set forth or
273 disclosed in any information received by the center from the
274 Department of Revenue other than as may be required by Sections
275 57-13-101 through 57-13-109 in an analysis prepared pursuant to
276 Sections 57-13-101 through 57-13-109.

277 (7) Information required by the Mississippi Development
278 Authority to prepare the reports required by Section 57-1-12.2
279 shall be furnished to the Mississippi Development Authority upon
280 request. It shall be unlawful for any officer or employee of the
281 Mississippi Development Authority to divulge or make known in any
282 manner the amount of income or any particulars set forth or
283 disclosed in any information received by the Mississippi
284 Development Authority from the Department of Revenue other than as
285 may be required by Section 57-1-12.2 in a report prepared pursuant
286 to Section 57-1-12.2.

287 (8) Information necessary to comply with Chapter 13, Title
288 85, may be furnished to financial institutions. It shall be
289 unlawful for any officer or employee of the financial institution
290 to divulge or make known in any manner the amount of income or any
291 particulars set forth or disclosed in any information received by



292 the financial institution from the Department of Revenue other
293 than as may be authorized by Chapter 13, Title 85.

294 (9) Nothing in this section shall be construed to prohibit
295 the publication of statistics, so classified as to prevent the
296 identification of particular reports or returns and the items
297 thereof, or the inspection by the Attorney General, or any other
298 attorney representing the state, of the report or return of any
299 taxpayer who shall bring action to set aside the tax thereon, or
300 against whom any action or proceeding has been instituted to
301 recover any tax or penalty imposed.

302 (10) Nothing in this section shall prohibit the commissioner
303 from making available information necessary to recover taxes owing
304 the state pursuant to the authority granted in Section 27-75-16.

305 (11) Reports and returns required under the provisions of
306 this chapter shall be preserved in accordance with approved
307 records control schedules. No records, however, may be destroyed
308 without the approval of the Director of the Department of Archives
309 and History.

310 (12) The Department of Revenue is authorized to disclose to
311 the Child Support Unit and to the Fraud Investigation Unit of the
312 Department of Human Services without the need for a subpoena or
313 proper judicial order the name, address, social security number,
314 amount of income, source of income, assets and other relevant
315 information, records and tax forms for individuals who are
316 delinquent in the payment of any child support as defined in



317 Section 93-11-101 or who are under investigation for fraud or
318 abuse of any state or federal program or statute as provided in
319 Section 43-1-23.

320 (13) Nothing in this section shall prohibit the Department
321 of Revenue from exchanging information with the federal government
322 that is necessary to offset income tax refund payment on debts
323 owed to this state or the United States.

324 (14) Nothing in this section shall prohibit the department
325 from making available information that is necessary to be
326 disclosed for the administration and enforcement of Section
327 27-7-87.

328 **SECTION 9.** This act shall take effect and be in force from
329 and after July 1, 2018.

