

By: Senator(s) McDaniel

To: Judiciary, Division A

SENATE BILL NO. 2879

1 AN ACT TO PROVIDE CERTAIN RESTRICTIONS, PROHIBITIONS AND  
2 CIVIL REMEDIES AGAINST AGENTS, EMPLOYEES AND CONTRACTORS OF THE  
3 INTERNAL REVENUE SERVICE RELATIVE TO CITIZENS OF THE STATE OF  
4 MISSISSIPPI AND TO PROVIDE THAT SAID PROVISIONS ARE INTERPOSED IN  
5 PLACE OF ANY FEDERAL LAW OR REGULATION AUTHORIZING SUCH ACTION  
6 AGAINST CITIZENS OF THE STATE OF MISSISSIPPI; TO DIRECT THE  
7 MISSISSIPPI DEPARTMENT OF FINANCE AND ADMINISTRATION TO DEVELOP  
8 QUARTERLY REPORTS, A TRANSPARENCY WEBSITE AND AN ANNUAL REPORT TO  
9 THE LEGISLATURE LISTING THE NUMBER OF INQUIRIES, REQUESTS FOR  
10 INFORMATION OR RECORDS, SUMMONS, SUBPOENAS ISSUED BY THE INTERNAL  
11 REVENUE SERVICE CONCERNING MISSISSIPPI RESIDENTS; TO ESTABLISH IN  
12 INTERNAL REVENUE CIVIL LIABILITY TRUST FUND ADMINISTERED BY THE  
13 DEPARTMENT OF FINANCE AND ADMINISTRATION TO PROVIDE REIMBURSEMENT  
14 FOR RETALIATORY ACTION AGAINST MISSISSIPPI BUSINESS BY THE  
15 INTERNAL REVENUE SERVICE IN TAX COURT; TO PROHIBIT CERTAIN ACTION  
16 BY DEBT COLLECTORS OF THE INTERNAL REVENUE SERVICE AND PROVIDE FOR  
17 LICENSURE DISCIPLINARY ACTION; TO ESTABLISH A CAUSE OF ACTION  
18 AGAINST INTERNAL REVENUE SERVICE AGENTS FOR DISCRIMINATORY ACTION  
19 AGAINST MISSISSIPPI TAXPAYERS; AND FOR RELATED PURPOSES.

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

21 **SECTION 1.** (1) All federal acts, laws, orders, rules and  
22 regulations, whether past, present or future, which authorize  
23 agents, employees or contractors of the Internal Revenue Service  
24 to take action against citizens of the State of Mississippi which  
25 is prohibited under this act shall be invalid in this state, shall



26 not be recognized by this state, shall be specifically rejected by  
27 this state and have no effect in this state.

28 (2) It shall be the duty of the courts and law enforcement  
29 agencies of this state to protect the rights of law-abiding  
30 citizens of the State of Mississippi and to refuse to enforce the  
31 applicable orders of agents, employees or contractors of the  
32 Internal Revenue Service in violation of this act.

33 **SECTION 2.** (1) Each state financial institution, subsidiary  
34 or service corporation shall submit a quarterly report to the  
35 Mississippi Department of Finance and Administration listing the  
36 number of inquiries, requests, summons, subpoenas or other  
37 requests for information or records received from the Internal  
38 Revenue Service concerning its Mississippi-domiciled account  
39 holder(s).

40 (2) The Department of Finance and Administration shall  
41 develop a transparency website accessible to the public and submit  
42 an annual report thereon combining the information from the  
43 quarterly reports by January 30 annually to the Governor and the  
44 Legislature.

45 **SECTION 3.** (1) The Internal Revenue Civil Liability Trust  
46 Fund is hereby created in the State Treasury to be administered by  
47 the Department of Finance and Administration.

48 (2) Funds shall be credited to the trust fund from  
49 legislative appropriations and interest earnings.



50 (3) The trust fund shall be maintained and utilized solely  
51 for the purpose of providing reimbursements for reasonable  
52 attorney's fees and costs incurred by a small business domiciled  
53 in this state as a result of retaliatory proceedings initiated by  
54 the Internal Revenue Service in United States Tax Court.

55 (4) Any balance in the trust fund at the end of the fiscal  
56 year shall remain in the trust fund and shall be available for  
57 carrying out the purpose of the trust fund.

58 (5) As used in this section, the term:

59 (a) "Department" means the Department of Finance and  
60 Administration.

61 (b) "Domiciled in this state" means authorized to do  
62 business in this state and located in this state.

63 (c) "IRS" means the Internal Revenue Service.

64 (d) "Retaliatory" means a proceeding initiated, at  
65 least in part, in retaliation for the taxpayer's political  
66 affiliation, ideology or beliefs, as determined by a court of  
67 competent jurisdiction.

68 (e) "Small business" means a business, regardless of  
69 corporate structure, domiciled in this state which employees  
70 twenty-five (25) or fewer people and generated average annual  
71 gross revenues of One Million Five Hundred Thousand Dollars  
72 (\$1,500,000.00) or less per year for the preceding two (2) years.  
73 For purposes of this part, the identity of a small business is not  
74 affected by name changes or changes in personnel.



75 (f) "Tax court" means the United States Tax Court,  
76 which hears and resolves disputes between taxpayers and the  
77 Internal Revenue Service.

78 (6) Any small business against which the IRS has initiated  
79 proceedings in tax court may submit a completed application to the  
80 department seeking reimbursement of reasonable attorney's fees  
81 incurred necessarily incurred in defending itself in that  
82 proceeding provided that:

83 (a) The small business prevailed in the proceedings  
84 before the tax court;

85 (b) Counsel representing the small business certifies,  
86 in writing, that there is a good-faith basis to believe that  
87 proceedings initiated by the IRS were retaliatory;

88 (c) The application is accompanied by the attorney's  
89 retainer agreement and fee or billing statements for the entire  
90 period of representation in the tax court proceedings;

91 (d) Such application is submitted within ninety (90)  
92 days of receipt of a final order or other pleading concluding the  
93 proceedings in tax court; and

94 (e) The small business was not previously awarded  
95 attorney's fees related to the proceedings in tax court.

96 (7) The department shall establish the amount to be awarded  
97 and shall certify the amount of the award and the name of the  
98 claimant to the State Fiscal Officer, who shall pay the award from  
99 the fund.



100 (8) The department may adopt rules to govern the claims  
101 process, implement the provisions of this section, and carry out  
102 the duties of the department under this section.

103 **SECTION 4.** No agent, employee or contractor of the federal  
104 Internal Revenue Service may:

105 (a) Simulate in any manner a law enforcement officer or  
106 a representative of any governmental agency.

107 (b) Use or threaten force or violence.

108 (c) Tell a debtor who disputes a consumer debt that she  
109 or he or any person employing her or him will disclose to another,  
110 orally or in writing, directly or indirectly, information  
111 affecting the debtor's reputation for credit worthiness without  
112 also informing the debtor that the existence of the dispute will  
113 also be disclosed as required by paragraph (f) of this section.

114 (d) Communicate or threaten to communicate with a  
115 debtor's employer before obtaining final judgment against the  
116 debtor, unless the debtor gives her or his permission in writing  
117 to contact her or his employer or acknowledges in writing the  
118 existence of the debt after the debt has been placed for  
119 collection. However, this does not prohibit a person from telling  
120 the debtor that her or his employer will be contacted if a final  
121 judgment is obtained.

122 (e) Disclose to a person other than the debtor or her  
123 or his family information affecting the debtor's reputation,  
124 whether or not for credit worthiness, with knowledge or reason to



125 know that the other person does not have a legitimate business  
126 need for the information or that the information is false.

127 (f) Disclose information concerning the existence of a  
128 debt known to be reasonably disputed by the debtor without  
129 disclosing that fact. If a disclosure is made before such dispute  
130 has been asserted and written notice is received from the debtor  
131 that any part of the debt is disputed, and if such dispute is  
132 reasonable, the person who made the original disclosure must  
133 reveal upon the request of the debtor within thirty (30) days the  
134 details of the dispute to each person to whom disclosure of the  
135 debt without notice of the dispute was made within the preceding  
136 ninety (90) days.

137 (g) Willfully communicate with the debtor or any member  
138 of her or his family with such frequency as can reasonably be  
139 expected to harass the debtor or her or his family, or willfully  
140 engage in other conduct which can reasonably be expected to abuse  
141 or harass the debtor or any member of her or his family.

142 (h) Use profane, obscene, vulgar or willfully abusive  
143 language in communicating with the debtor or any member of her or  
144 his family.

145 (i) Claim, attempt or threaten to enforce a debt when  
146 such person knows that the debt is not legitimate, or assert the  
147 existence of some other legal right when such person knows that  
148 the right does not exist.



149           (j) Use a communication that simulates in any manner  
150 legal or judicial process or that gives the appearance of being  
151 authorized, issued or approved by a government, governmental  
152 agency, or attorney at law, when it is not.

153           (k) Communicate with a debtor under the guise of an  
154 attorney by using the stationery of an attorney or forms or  
155 instruments that only attorneys are authorized to prepare.

156           (l) Orally communicate with a debtor in a manner that  
157 gives the false impression or appearance that such person is or is  
158 associated with an attorney.

159           (m) Advertise or threaten to advertise for sale any  
160 debt as a means to enforce payment except under court order or  
161 when acting as an assignee for the benefit of a creditor.

162           (n) Publish or post, threaten to publish or post, or  
163 cause to be published or posted before the general public  
164 individual names or any list of names of debtors, commonly known  
165 as a deadbeat list, for the purpose of enforcing or attempting to  
166 enforce collection of consumer debts.

167           (o) Refuse to provide adequate identification of  
168 herself or himself or her or his employer or other entity whom she  
169 or he represents if requested to do so by a debtor from whom she  
170 or he is collecting or attempting to collect a consumer debt.

171           (p) Mail any communication to a debtor in an envelope  
172 or postcard with words typed, written or printed on the outside of  
173 the envelope or postcard calculated to embarrass the debtor. An



174 example of this would be an envelope addressed to "Deadbeat, Jane  
175 Doe" or "Deadbeat, John Doe."

176 (q) Communicate with the debtor between the hours of 9  
177 p.m. and 8 a.m. in the debtor's time zone without the prior  
178 consent of the debtor.

179 (i) The person may presume that the time a  
180 telephone call is received conforms to the local time zone  
181 assigned to the area code of the number called, unless the person  
182 reasonably believes that the debtor's telephone is located in a  
183 different time zone.

184 (ii) If, such as with toll-free numbers, an area  
185 code is not assigned to a specific geographic area, the person may  
186 presume that the time a telephone call is received conforms to the  
187 local time zone of the debtor's last known place of residence,  
188 unless the person reasonably believes that the debtor's telephone  
189 is located in a different time zone.

190 (r) Communicate with a debtor if the person knows that  
191 the debtor is represented by an attorney with respect to such debt  
192 and has knowledge of, or can readily ascertain, such attorney's  
193 name and address, unless the debtor's attorney fails to respond  
194 within thirty (30) days to a communication from the person, unless  
195 the debtor's attorney consents to a direct communication with the  
196 debtor, or unless the debtor initiates the communication.





197 (s) Cause a debtor to be charged for communications by  
198 concealing the true purpose of the communication, including  
199 collect telephone calls and telegram fees.

200 (t) Discriminate against, or target, any debtor on the  
201 basis of his or her political affiliation, ideology, viewpoint or  
202 conduct.

203 **SECTION 5.** (1) If, in connection with any collection of  
204 federal tax concerning a taxpayer, any officer or employee of, or  
205 contractor working for, the Internal Revenue Service recklessly or  
206 intentionally, or by reason of negligence, disregards any of the  
207 following provisions, such taxpayer may bring a civil suit in a  
208 court of competent jurisdiction for damages against the officer,  
209 employee or contractor:

210 (a) Any civil right established under Title VI or VII  
211 of the Civil Rights Act of 1964; or

212 (b) U.S. Code Title 26 or Department of Treasury  
213 regulations.

214 (2) In any action brought under subsection (1) of this  
215 section, upon a finding of liability on the part of the defendant,  
216 the defendant may be liable for:

217 (a) Actual damages sustained by the taxpayer, which,  
218 but for the actions of the defendant, would not have been  
219 sustained; and

220 (b) Attorney's fees and costs.



221 (3) If, in connection with any collection of federal tax  
222 concerning a taxpayer, any officer or employee of, or contractor  
223 working for, the Internal Revenue Service recklessly or  
224 intentionally, or by reason of negligence, disregards any  
225 provisions of the First, Fourth or Fifth Amendments of the  
226 Constitution of the United States, such taxpayer may bring a civil  
227 suit in a court of competent jurisdiction for damages against that  
228 officer, employee or contractor.

229 (4) In any action brought under subsection (3) of this  
230 section, upon a finding of liability on the part of the defendant,  
231 the defendant may be liable for:

232 (a) Actual damages sustained by the taxpayer, which,  
233 but for the actions of the defendant, would not have been  
234 sustained;

235 (b) Punitive damages, if the taxpayer can demonstrate,  
236 by clear and convincing evidence, that the defendant is guilty of  
237 intentional misconduct or gross negligence; and

238 (c) Attorney's fees and costs.

239 (5) Notwithstanding any other provision of law, an action  
240 under subsection (1) of this section may be brought within two (2)  
241 years after the date the right of action accrues.

242 **SECTION 6.** This act shall take effect and be in force from  
243 and after July 1, 2023.

