

By: Representative Smith

To: Ways and Means

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 1422

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

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

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

11 (a) "Claimant" means the board of trustees or governing
12 authority of a public hospital.

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

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

20 (d) "Department" means the Department of Revenue of the
21 State of Mississippi.



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

24 (f) "Refund" means the Mississippi income tax refund
25 which the department determines to be due any individual taxpayer.

26 **SECTION 2.** The collection remedy authorized by Sections 1
27 through 7 of this act is in addition to and not in substitution
28 for any other remedy available by law.

29 **SECTION 3.** (1) A claimant may submit debts in excess of
30 Twenty-five Dollars (\$25.00) owed to its hospital to the
31 department for collection through setoff, under the procedure
32 established by Sections 1 through 7 of this act, except in cases
33 where the validity of the debt is legitimately in dispute, an
34 alternate means of collection is pending and believed to be
35 adequate, or such collection would result in a loss of federal
36 funds or federal assistance.

37 (2) Upon the request of a claimant, the department shall
38 setoff any refund against the sum certified by the claimant as
39 provided in Sections 1 through 7 of this act.

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

45 (2) If a debtor identified by a claimant is determined by
46 the department to be entitled to a refund of at least Twenty-five



47 Dollars (\$25.00), the department shall transfer an amount equal to
48 the refund owed, not to exceed the amount of the claimed debt
49 certified, to the claimant. The department shall retain fifteen
50 percent (15%) of the claimed debt as a collection fee. When the
51 income tax refund owed exceeds the claimed debt, the department
52 shall send the excess amount to the debtor within a reasonable
53 time after the excess is determined.

54 (3) At the time of the transfer of funds to a claimant
55 pursuant to subsection (2) of this section, the department shall
56 notify the taxpayer or taxpayers whose refund is sought to be
57 setoff that the transfer has been made. The notice shall clearly
58 set forth the name of the debtor, the manner in which the debt
59 arose, the amount of the claimed debt, the transfer of funds to
60 the claimant pursuant to subsection (2) of this section and the
61 intention to setoff the refund against the debt, the amount of the
62 refund in excess of the claimed debt, the taxpayer's opportunity
63 to give written notice to contest the setoff within thirty (30)
64 days of the date of mailing of the notice, the name and mailing
65 address of the claimant to which the application for such a
66 hearing must be sent, and the fact that the failure to apply for
67 such a hearing, in writing, within the thirty-day period will be
68 deemed a waiver of the opportunity to contest the setoff. In the
69 case of a joint return or a joint refund, the notice shall also
70 state the name of the taxpayer named in the return, if any,
71 against whom no debt is claimed, the fact that a debt is not



72 claimed against such taxpayer, the fact that such taxpayer is
73 entitled to receive a refund if it is due him regardless of the
74 debt asserted against his or her spouse, and that in order to
75 obtain a refund due him or her, such taxpayer must apply in
76 writing for a hearing with the claimant named in the notice within
77 thirty (30) days of the date of the mailing of the notice. If a
78 taxpayer fails to apply in writing for such a hearing within
79 thirty (30) days of the mailing of such notice, he will have
80 waived his opportunity to contest the setoff.

81 (4) Upon receipt of funds transferred from the department
82 pursuant to subsection (2) of this section, the claimant shall
83 deposit and hold the funds in an escrow account until a final
84 determination of the validity of the debt.

85 **SECTION 5.** (1) When the claimant receives a protest or
86 application in writing from a taxpayer within thirty (30) days of
87 the notice issued by the department, the claimant shall set a date
88 to hear the protest and give notice to the taxpayer by registered
89 or certified mail of the date so set. The time and place of the
90 hearing shall be designated in the notice and the date set shall
91 not be less than fifteen (15) days from the date of the notice.
92 If, at hearing, the sum asserted as due and owing is found not to
93 be correct, an adjustment to the claim may be made. The claimant
94 shall give notice to the debtor of its final determination as
95 provided in subsection (3) of this section.



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

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

106 **SECTION 6.** (1) Upon final determination of the amount of
107 the debt due and owing by means of a hearing or by the taxpayer's
108 default through failure to comply with timely request for review,
109 the claimant shall remove the amount of the debt due and owing
110 from the escrow account and credit that amount to the debtor's
111 obligation.

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



121 to the claimant in excess of the debt determined to be due and
122 owing at a hearing, if a hearing was held. At that time, the
123 claimant shall refund to the debtor the amount of the claimed debt
124 originally certified and transferred to it by the department in
125 excess of the amount of debt finally found to be due and owing.

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

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

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

144 27-7-83. (1) Returns and return information filed or
145 furnished under the provisions of this chapter shall be



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



170 satisfied that the need for furnishing the information outweighs
171 the rights of the taxpayer to have such information secreted.

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

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



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

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

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

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

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

214 (vi) In the case of the return of a trust, the
215 trustee or trustees, jointly or separately, and any beneficiary of
216 such trust, but only to the extent that such beneficiary has a
217 material interest which will be affected by information contained
218 therein;



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

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

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

237 (d) Any return to which this section applies shall,
238 upon written request, also be open to inspection by or disclosure
239 to the attorney-in-fact duly authorized in writing by any of the
240 persons described in paragraph (a) of this subsection to inspect
241 the return or receive the information on his behalf, subject to
242 the conditions provided in paragraph (a).



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

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

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

266 (6) Information required by the University Research Center
267 to prepare the analyses required by Sections 57-13-101 through



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

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

286 (8) Nothing in this section shall be construed to prohibit
287 the publication of statistics, so classified as to prevent the
288 identification of particular reports or returns and the items
289 thereof, or the inspection by the Attorney General, or any other
290 attorney representing the state, of the report or return of any
291 taxpayer who shall bring action to set aside the tax thereon, or



292 against whom any action or proceeding has been instituted to
293 recover any tax or penalty imposed.

294 (9) Nothing in this section shall prohibit the commissioner
295 from making available information necessary to recover taxes owing
296 the state pursuant to the authority granted in Section 27-75-16.

297 (10) Reports and returns required under the provisions of
298 this chapter shall be preserved in accordance with approved
299 records control schedules. No records, however, may be destroyed
300 without the approval of the Director of the Department of Archives
301 and History.

302 (11) The Department of Revenue is authorized to disclose to
303 the Child Support Unit and to the Fraud Investigation Unit of the
304 Department of Human Services without the need for a subpoena or
305 proper judicial order the name, address, social security number,
306 amount of income, source of income, assets and other relevant
307 information, records and tax forms for individuals who are
308 delinquent in the payment of any child support as defined in
309 Section 93-11-101 or who are under investigation for fraud or
310 abuse of any state or federal program or statute as provided in
311 Section 43-1-23.

312 (12) Nothing in this section shall prohibit the Department
313 of Revenue from exchanging information with the federal government
314 that is necessary to offset income tax refund payment on debts
315 owed to this state or the United States.



316 (13) Nothing in this section shall prohibit the department
317 from making available information that is necessary to be
318 disclosed for the administration and enforcement of Section
319 27-7-87.

320 **SECTION 9.** This act shall take effect and be in force from
321 and after July 1, 2016, and shall stand repealed from and after
322 June 30, 2016.

