

Regular Session, 2005

SENATE BILL NO. 300

BY SENATOR MICHOT

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

TAX/INCOME/PERSONAL. Provides for offset of individual income tax refunds against debts owed emergency ambulance providers.

1 AN ACT

2 To enact Part V-A of Chapter 1 of Subtitle 2 of Title 47 of the Louisiana Revised Statutes
3 of 1950, to be comprised of R.S. 47:299.51 through 299.62, relative to income tax;
4 to provide offset of individual income tax refunds against debt owed certain
5 emergency ambulance providers; to provide for definitions; to provide for offset
6 request; to provide for the authority of the secretary, and for the promulgation of
7 rules and regulations; to provide procedures to make the offset claim; to provide for
8 disallowance; to provide for fees; to provide for remittance; to provide for notice; to
9 provide for liability; to provide for ranking and priority of claims; and to provide for
10 related matters.

11 Be it enacted by the Legislature of Louisiana:

12 Section 1. Part V-A of Chapter 1 of Subtitle 2 of Title 47 of the Louisiana Revised
13 Statutes of 1950, comprised of R.S. 47:299.51 through 299.62, is hereby enacted to read as
14 follows:

15 **PART V-A. OFFSET OF INDIVIDUAL INCOME TAX REFUNDS**

16 **AGAINST DEBTS OWED CERTAIN BUSINESSES**

17 **§299.51. Purpose**

1 The purpose of this Part is to establish a system to permit certain
2 businesses of the state of Louisiana to make a claim of offset to the secretary of
3 the Department of Revenue against any amounts refundable to an individual
4 because of overpayments of Louisiana individual income taxes for debts owed
5 by the individual to such business. It is the intention of the legislature that this
6 offset remedy be in addition to and not in substitution of any other remedy or
7 action in favor of such business for the collection of debts.

8 §299.52. Definitions

9 As used in this Part, the following words, terms, and phrases have the
10 meaning ascribed to them by this Section unless the context clearly indicates a
11 different meaning:

12 (1) "Emergency ambulance provider," or "provider" shall mean any
13 ambulance provider duly licensed by the Department of Health and Hospitals
14 pursuant to R.S. 40:1235 et seq, which is either the designated primary, or
15 secondary 911 emergency response ambulance provider for a parish,
16 municipality or ambulance service district in the state of Louisiana.

17 (2) "Claimant" means any emergency ambulance provider making an
18 offset claim pursuant to this Part.

19 (3) "Debt" means any legally collectible, liquidated sum due and owing
20 a provider, as a result of the provision of emergency ambulance transportation
21 or due and owing a provider collectible by any agent of provider, if the amount
22 of the debt is twenty-five dollars or more.

23 (4) "Offset claim" means a request made to the secretary of the
24 Department of Revenue for payment of a debt from any refund due an
25 individual resulting from overpayment of state income taxes.

26 (5) "Refund" means an amount due to be paid to an individual because
27 of an overpayment to the state of individual state income taxes.

28 (6) "Remittance" means the actual transfer or delivery of funds from the
29 secretary to the claimant.

1 (7) "Rule or regulation" means any official procedure or requirement
2 that individuals or claimants must follow in order to exercise their rights or
3 privileges under this Part and which have been promulgated by the secretary.

4 (8) "Secretary" means the secretary of the Department of Revenue and
5 includes any of his duly authorized assistants.

6 (9) "Written notice" means a certified letter sent to the individual at the
7 address shown on the individual's state income tax return or such other mailing
8 address listed by an individual in a written contest to an offset.

9 §299.53. Offset request

10 In accordance with the provisions of this Part any emergency ambulance
11 provider that has a debt owed to it by an individual may make an offset claim
12 to the secretary against any refund or overpayment of Louisiana individual
13 income tax in which the individual owing the debt has an interest.

14 §299.54. Authority of the secretary; promulgation of rules and regulations

15 A. The secretary may promulgate rules and regulations to establish a
16 reasonable and efficient system for permitting a claim of offset by an emergency
17 ambulance provider pursuant to this Part.

18 B. The rules and regulations promulgated by the secretary may impose
19 any reasonable procedure or requirement on a claimant making an offset claim
20 including but not limited to requirements concerning the information necessary
21 to process claims properly, the form and organization of the information, the
22 time limits for submitting such claims, and the method of making remittances
23 to the agency.

24 C. Any rules and regulations promulgated by the secretary shall be
25 favorably construed in favor of the secretary.

26 §299.55. Procedure for making offset claims

27 Any emergency ambulance provider making an offset claim to the
28 secretary shall make its claim in writing to the office of the secretary and shall
29 include with each claim information required by rule and regulation. This

1 writing shall also include a certification by the claimant that the debts for which
2 claims of offset are made are legally collectible, liquidated sums due and owing
3 the claimant or due and owing a person and collectible by the agency.

4 §299.56. Disallowance of claims by secretary

5 A. The secretary, in his discretion, may disallow all claims of a claimant
6 if the secretary determines that any one of the following:

7 (1) The claimant has been submitting substantially incorrect
8 information; however, the secretary shall have no duty to determine the legal
9 validity or existence of any debt or debts that are the basis for any claim or
10 claims of offset by an agency.

11 (2) The claimant has not complied with any rule or regulation
12 promulgated by the secretary pursuant to this Part.

13 B. If the secretary disallows the offset claim of a claimant, the secretary
14 shall inform the claimant in writing of the disallowance and his reasons for
15 disallowing the offset.

16 C. The offset claims of any claimant that have been disallowed by the
17 secretary shall not be processed or accepted by the secretary until such time as
18 the secretary determines that the reason or reasons for the disallowance no
19 longer exists.

20 §299.57. Fee for offset

21 For each offset of a debt against a refund due, the secretary shall charge
22 a fee of twenty dollars, which shall be deducted from the amount remitted to the
23 claimant. Ten dollars of this fee shall be deposited into a Department of
24 Revenue recapture revolving fund to be used for collection activities, and ten
25 dollars shall be deposited into the state general fund.

26 §299.58. Offset and remittance to the claimant; escrow account; removal from
27 escrow account

28 A. Upon acceptance of an offset claim or claims that have not been
29 disallowed the secretary shall remit to the claimant the amount of claim or

1 **claims that can be paid out of the amount of the individual's refund; provided**
2 **that any liability owed for individual income taxes has been satisfied.**

3 **B. Any amount offset by the secretary and remitted to the claimant shall**
4 **be placed in an escrow account and held by the agency for a period of forty-five**
5 **days from the date of mailing of the notice of offset to the individual.**

6 **C. If the debtor files a written protest to the offset within the forty-five**
7 **day period provided in Subsection B of this Section, the amount of offset in the**
8 **escrow account shall be held pending the final disposition of the matter by a**
9 **court of competent jurisdiction or by mutual agreement between the claimant**
10 **and the debtor.**

11 **D. If no written contest to the offset is made within the forty-five day**
12 **period, failure to file a written protest by the individual shall be deemed a**
13 **waiver of the individual's right to contest the offset and the amount of offset**
14 **shall be removed from the escrow account and credited against the individual's**
15 **debt.**

16 **§299.59. Notice of offset**

17 **Upon remittance of any refund or part thereof to any claimant, the**
18 **secretary shall cause a written notice to be sent to the individual whose refund**
19 **was offset. This written notice shall contain but not necessarily be limited to the**
20 **following information:**

21 **(1) The name of the individual.**

22 **(2) The amount of offset claimed.**

23 **(3) The amount of the individual's refund which has been offset.**

24 **(4) A statement that the offset of the individual's refund has been made**
25 **pursuant to this Part.**

26 **(5) A statement that a specific amount of the individual's refund has been**
27 **delivered to the agency making the claim.**

28 **(6) The manner in which the offset claim arose.**

29 **(7) The name and address of the claimant.**

1 **(8) A statement of the individual's right to contest the offset and**
2 **remittance of his refund or any part thereof to the claimant.**

3 **(9) A statement that any protest of the offset must be made in writing to**
4 **the claimant within forty-five days of the date of mailing of the notice of offset**
5 **by the secretary.**

6 **(10) A statement that a failure to protest the offset within the forty-five**
7 **day period will constitute a waiver of the right to protest the offset.**

8 **§299.60. Remittance; equivalent of refund**

9 **The remittance by the secretary to the claimant and the sending of the**
10 **notice of offset by certified mail to the address shown on the individual's return**
11 **shall be deemed to be, to the extent of the remittance, a refund to the individual**
12 **and to any other person who has a claim to such refund. The secretary shall**
13 **refund to the individual any amount not remitted to a claimant pursuant to an**
14 **offset request.**

15 **§299.61. Liability of secretary**

16 **The secretary or any of his representatives shall not be liable to any**
17 **person because of a refund that has been remitted to a claimant in accordance**
18 **with the provisions of this Part.**

19 **§299.62. Ranking and priority of claims**

20 **Claims made pursuant to R.S. 47:299.3 or R.S. 47:299.33 shall prime all**
21 **claims made under this Part. If there is more than one claim made under this**
22 **Part, they shall be paid in the order in which they are received.**

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Alan Miller.

DIGEST

Proposed law establishes a system that permits emergency ambulance providers to make offset claims to the secretary of revenue against amounts refundable to an individual that owes a debt to the provider.

Proposed law authorizes the secretary to promulgate rules and regulations that establish an offset claim system.

Proposed law requires the provider to make the offset claim in writing to the secretary and include a certification of the debt owed and liquidated sums due and owed to the provider.

Proposed law authorizes the secretary to disallow the claim of offset if the provider has submitted substantially incorrect information or the provider has not complied with applicable department rules or regulations. Proposed law requires the secretary to notify the provider the reasons for the denial in writing.

Proposed law authorizes the secretary to charge a \$20 fee for each approved offset to be deducted from the amount remitted to the provider, with \$10 deposited in the department's recapture revolving fund and \$10 deposited into the state general fund.

Proposed law requires any approved offset to be placed in an escrow account for 45 days after notice is mailed to the individual. The individual has 45 days to protest the offset. If the individual protests the offset, the offset remains in escrow until final disposition of the matter by a court or by mutual agreement.

Proposed law requires the secretary to give written notice by certified mail to the individual whose refund was offset upon remittance of the offset to the provider.

Proposed law exempts the secretary from any liability relating to offsets.

Proposed law provides that offset claims made by state agencies and custodial parents owed child support prime any offset claims made by emergency ambulance providers.

(Adds R.S. 47:299.51-299.62)