

HB 4339

SECRET

2010 APR -1 PM 4: 27

OFFICE OF THE SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE
SECOND REGULAR SESSION, 2010



ENROLLED

**COMMITTEE SUBSTITUTE
FOR
House Bill No. 4339**

(By Delegates H. White and Campbell)



Passed March 13, 2010

In Effect From Passage

ENROLLED

COMMITTEE SUBSTITUTE

FOR

H. B. 4339

(BY DELEGATES H. WHITE AND CAMPBELL)

[Passed March 13, 2010; in effect from passage.]

AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §14-1-37, relating to collecting debts through the United States Treasury Offset Program; authorizing the State Auditor to enter into agreements with the United States Treasury's Financial Management Service; specifying reduction and offset of payments for collection of debt; authorizing rules; specifying cost-effective actions to aggressively collect; and authorizing interagency agreements.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §14-1-37, to read as follows:

ARTICLE 1 CLAIMS DUE THE STATE.

§14-1-37. United States Treasury offset program authorized; setoff of federal debts.

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CHRISTOPHER R. RYAN
SECRETARY OF STATE

1 (a) The auditor is authorized to enter into an agreement
2 with the Secretary of the Treasury to participate in the
3 Treasury Offset Program pursuant to 31 U.S.C. §3716 for the
4 collection of any debts owed to the state or to state agencies
5 from federal payments to vendors, contractors and taxpayers.
6 The agreement may provide for the United States to submit
7 nontax debts owed to federal agencies for offset against state
8 payments otherwise due and owing to taxpayers, vendors and
9 contractors providing goods or services to the state, its
10 departments, agencies or institutions.

11 (b) For purposes of this section the following words have
12 the meanings indicated.

13 (1) "Federal official" means a unit or official of the
14 federal government charged with the collection of nontax
15 liabilities payable to the federal government and with the
16 authority to enter into the offset agreement.

17 (2) "Offset agreement" is the agreement authorized by
18 this section.

19 (3) "Person" means an individual, vendor, contractor,
20 partnership, society, association, joint stock company, limited
21 liability company, corporation, estate, receiver, trustee,
22 assignee, and any other person acting in a fiduciary or
23 representative capacity whether appointed by a court or
24 otherwise, or any combination of the foregoing.

25 (4) "State payments" shall include tax refunds pursuant
26 to the Tax Procedure and Administration Act, article ten,
27 chapter eleven of this code, and vendor or contractor
28 payments made by the state to any person including expense
29 reimbursements to an employee of the state: *Provided*, That
30 "state payments" do not include salary, wages, pension and
31 any other type, class or amount of payment as the auditor
32 determines to impact the health or welfare of the citizens of
33 the state.

34 (c) Pursuant to the agreement authorized herein, a federal
35 official may:

36 (1) Certify to the auditor the existence of a person's
37 delinquent, nontax debt owed by the person to the federal
38 government by providing:

39 (A) The name of the person;

40 (B) The social security number or federal tax identification
41 number;

42 (C) The amount of the nontax debt; and

43 (D) Any other information pursuant to the agreement
44 authorized herein;

45 (2) Request the auditor to withhold any state payment to
46 which the person is entitled; and

47 (3) Retain a portion of the proceeds of any federal
48 administrative setoff pursuant to 31 CSR 285.6.

49 (d) As required or permitted by state law, federal law or
50 the offset agreement, the State Auditor:

51 (1) Shall determine if a person for whom a certification
52 is received is due a state payment;

53 (2) Shall withhold a state payment that is due a person
54 whose name has been certified by a federal official;

55 (3) Shall notify the person of the amount withheld in
56 accordance with the offset agreement;

57 (4) Shall pay to the federal official the lesser of:

58 (A) The entire state payment; or

59 (B) The amount certified; and

60 (C) Pay any refund or state payment in excess of the
61 certified amount to the person less any fee pursuant to
62 subsection (e);

63 (5) May certify to a federal official a person's delinquent
64 debt owed to the state by providing the federal official:

65 (A) The name of the person;

66 (B) The social security number or tax identification
67 number;

68 (C) The amount of the debt due the state; and

69 (D) Any other information required by the offset
70 agreement; and

71 (6) May request that the federal official withhold any
72 federal vendor or other federal payment pursuant to the offset
73 agreement to which the person is entitled.

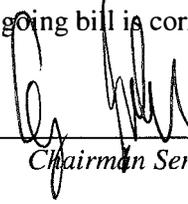
74 (e) The auditor may, by rule, establish a reasonable
75 administrative fee to be charged to the person for the
76 provision of state offset of federal debt. The fee is a separate
77 debt and may be withheld from any refund, reimbursement or
78 other monies held for the person. The auditor may charge the
79 person who is the subject of federal offset of a state debt, a
80 fee equal to the fee authorized in subsection (c).

81 (f) Each state agency and institution shall take all
82 appropriate and cost-effective actions to aggressively collect
83 its accounts receivable. Each agency and institution may
84 participate in the Treasury Offset program of the United
85 States under 31 U.S.C. §3716.

86 (g) The auditor may propose rules for legislative
87 approval in accordance with the provisions of article three,
88 chapter twenty-nine-a of this code to administer and
89 implement this section and the offset agreement.

90 (h) The auditor and the chief administrators of the
91 various state agencies are authorized by this section to enter
92 into interagency agreements for the purpose of protecting a
93 person's return information as defined in section ten, article
94 five-d, chapter eleven of this code and collecting debts, fees
95 and penalties due the state, its departments, agencies or
96 institutions.

That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.



Chairman Senate Committee



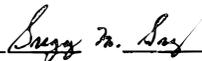
Chairman House Committee

Originating in the House.

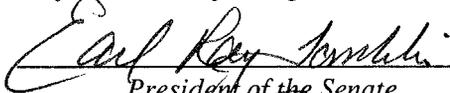
In effect from passage.



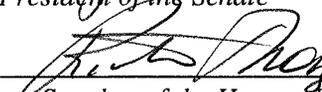
Clerk of the Senate



Clerk of the House of Delegates



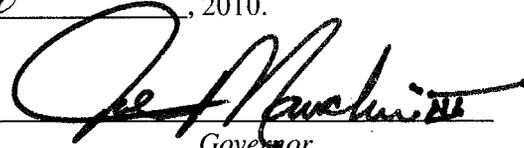
President of the Senate



Speaker of the House of Delegates

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SECRETARY OF STATE

The within is approved this the 18
day of April, 2010.



Governor

PRESENTED TO THE
GOVERNOR

MAR 26 2010

Time 1:40 p