

By: Flagg

To: Labor

HOUSE BILL NO. 211  
(As Sent to Governor)

1 AN ACT TO AMEND SECTION 71-5-367, MISSISSIPPI CODE OF 1972,  
2 TO REVISE THE METHOD OF FILING LIENS FOR CERTAIN CONTRIBUTIONS  
3 OWED TO THE STATE UNEMPLOYMENT COMPENSATION FUND; AND FOR RELATED  
4 PURPOSES.

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

6 SECTION 1. Section 71-5-367, Mississippi Code of 1972, is  
7 amended as follows:

8 71-5-367. If an employer shall file a report in proper form  
9 and in proper amount, but shall fail to pay the amount of  
10 contributions shown to be due thereby at the time of such filing,  
11 or if an employer shall fail to pay any assessment as provided and  
12 made under Section 71-5-365 within fifteen (15) days after such  
13 assessment has become final as herein provided, the commission may  
14 issue a warrant under its official seal, directed to the sheriff  
15 of any county of the state, commanding him to levy upon and sell  
16 the real and personal property of such employer as has defaulted  
17 in the payment of such contributions or assessments, which may be  
18 found within his county, for the payment of the amount thereof,  
19 together with interest, damages, if any, assessed for failure to  
20 make and file a report or a corrected or sufficient report, and an  
21 additional sum not exceeding one hundred percent (100%) of the  
22 amount of the unpaid contributions due, in the discretion of the  
23 commission, as damages for failure to pay, if not already assessed  
24 under Section 71-5-365 and the costs of executing the warrant and  
25 to return such warrant to the commission, and to pay to it the  
26 money collected by virtue thereof on the date specified therein.  
27 The commission shall cause to be delivered to the clerk of the

28 circuit court a copy of such warrant issued to the sheriff. Such  
29 clerk shall enter in the judgment roll, in the column for judgment  
30 debtors, the name of the employer mentioned in the warrant and, in  
31 appropriate columns, the amount of contributions, interest and  
32 damages for which the warrant is issued, a notation that the lien  
33 covers all previous, current and future periods for the life of  
34 the lien, and the date when such copy is filed. Thereupon the  
35 amount of such warrant so filed and entered shall become a lien  
36 upon the title to and interest in all real and personal property,  
37 including choses in action against negotiable instruments not past  
38 due, of the employer against whom the warrant is issued in the  
39 same manner as a judgment duly enrolled in the office of such  
40 clerk. Any such liens shall cover all contributions, interest and  
41 damages owed to the commission from previous, current and future  
42 periods until the expiration of such lien or until the amount of  
43 the lien is fully satisfied. Such judgment shall not be a lien  
44 upon the property of the employer for a period of more than seven  
45 (7) years from the date of filing of the notice of the tax lien  
46 for failure to pay contributions, damages and interest unless  
47 action be brought thereon before the expiration of such time or  
48 unless the commission refiles such notice of tax lien before the  
49 expiration of such time. The judgment shall be a lien upon the  
50 property of the employer for a period of seven (7) years from the  
51 date of refiling such notice of tax lien unless action be brought  
52 thereon before the expiration of such time or unless the  
53 commission refiles such notice of tax lien before the expiration  
54 of such time. There shall be no limit upon the number of times  
55 the commission may refile notices of tax liens. The sheriff shall  
56 proceed upon the warrant in the same manner and with like effect  
57 as that provided by law in respect to executions issued against  
58 property upon judgments or in attachment proceedings of a court of  
59 record, and the remedies by garnishment shall apply; and for his  
60 services in executing the warrant the sheriff shall be entitled to  
61 the same fees, which he may collect in the same manner.

62 The commission may elect to issue the warrant directly to the  
63 circuit clerk of any county of this state for enrollment upon the  
64 judgment rolls of the county. In such case, the clerk shall enter

65 in the judgment roll, in the column for judgment debtors, the name  
66 of the employer mentioned in the warrant and, in appropriate  
67 columns, the amount of contributions, interest and damages for  
68 which the warrant is issued, a notation that the lien covers all  
69 previous, current and future periods for the life of the lien, and  
70 the date when such warrant is filed. The lien shall have the same  
71 effect and remedies as that provided by law in respect to  
72 executions issued against property upon judgments or in attachment  
73 proceedings of a court of record, and the remedies by garnishment  
74 shall apply.

75         On the suggestion of the commission, in writing, that any  
76 person is indebted to an employer named in any warrant which has  
77 been entered on the judgment roll in the office of the circuit  
78 clerk of any county, or has property of such employer in his  
79 hands, or knows of some other person who is so indebted, or who  
80 has effects or property of such employer in his hands, it shall be  
81 the duty of the clerk of the circuit court of such county to issue  
82 a writ of garnishment directed to the sheriff or proper officer,  
83 commanding him to summon such person as garnishee to appear at a  
84 term of the circuit court of the county, or a term of the county  
85 court, as in cases provided by law for garnishment upon the  
86 judgments of such court, to answer accordingly. The \* \* \* circuit  
87 court or county court, as the case may be, shall assume full  
88 jurisdiction over the subject matter and the parties, and all the  
89 provisions of law with respect to garnishment proceedings  
90 instituted in the circuit court under Sections 11-35-1 through  
91 11-35-61 of the Mississippi Code of 1972, shall be applicable as  
92 far as possible thereto.

93         SECTION 2. This act shall take effect and be in force from  
94 and after July 1, 2000.