

By: Representative Compretta

To: Ways and Means

HOUSE BILL NO. 1406

1 AN ACT TO AMEND SECTION 27-35-1, MISSISSIPPI CODE OF 1972, TO
2 PROVIDE THAT ANY OUTSTANDING TAX LIEN ON REAL PROPERTY ACQUIRED
3 FROM A PRIVATE OWNER BY A GOVERNMENTAL ENTITY SHALL BE
4 EXTINGUISHED, BY OPERATION OF LAW, IMMEDIATELY UPON ACQUISITION OF
5 THE PROPERTY BY THE GOVERNMENTAL ENTITY; TO PROVIDE THAT THE
6 RIGHTS OF A PERSON ACQUIRING SUCH PROPERTY AT A VALID TAX SALE
7 MADE BEFORE ACQUISITION OF THE PROPERTY BY THE GOVERNMENTAL ENTITY
8 SHALL NOT BE LIMITED OR AFFECTED; TO PROVIDE THAT A TAX SALE MADE
9 AFTER SUCH PROPERTY IS ACQUIRED BY A GOVERNMENTAL ENTITY SHALL BE
10 VOID AS TO SUCH PROPERTY; TO AMEND SECTION 27-35-3, MISSISSIPPI
11 CODE OF 1972, TO PROVIDE THAT WHENEVER REAL PROPERTY IS ACQUIRED
12 FROM A PRIVATE OWNER BY A GOVERNMENTAL ENTITY, THE COUNTY TAX
13 ASSESSOR SHALL REASSESS AND PRORATE THE TAXES DUE FOR THE ENSUING
14 YEAR AND SHALL ASSESS TAXES AGAINST THE TAXPAYER ONLY FOR THAT
15 PART OF THE YEAR PRECEDING THE DATE THAT TITLE TO THE PROPERTY IS
16 TRANSFERRED TO THE GOVERNMENTAL ENTITY; TO PROVIDE THAT THE
17 PROPERTY SHALL BE EXEMPT FROM TAXATION FOR THE REMAINDER OF THE
18 YEAR; TO AMEND SECTION 27-35-5, MISSISSIPPI CODE OF 1972, TO
19 PROVIDE THAT WHENEVER REAL PROPERTY IS ACQUIRED BY A GOVERNMENTAL
20 ENTITY, THERE SHALL BE NO PERSONAL LIABILITY FOR ANY AD VALOREM
21 TAXES THAT, AFTER THE DATE OF ACQUISITION, ARE ASSESSED UPON THE
22 PROPERTY; AND FOR RELATED PURPOSES.

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

24 SECTION 1. Section 27-35-1, Mississippi Code of 1972, is
25 amended as follows:

26 27-35-1. (1) Taxes (state, county and municipal) assessed
27 upon lands or personal property, excepting motor vehicles as
28 defined by the Motor Vehicle Ad Valorem Tax Law of 1958, Sections
29 27-51-1 through 27-51-49, shall bind the same and be entitled to
30 preference over all judgments, executions, encumbrances or liens
31 whenever created; and all such taxes assessed shall be a lien upon
32 and bind the property assessed. Except as provided in subsections
33 (3) and (4) of this section, the aforesaid tax lien shall attach
34 to all land situated within this state on January 1 of each year,
35 and upon any personal property so situated or brought into this

36 state at any time prior to March 1 of each year except as
37 hereinafter provided. A tax lien shall attach to that personal
38 property listed in an ordinance duly adopted by a county or
39 municipality and to all heavy duty equipment at any time of the
40 year such property is brought into or situated in this state.
41 Such personal property shall not be subject to tax in more than
42 one (1) county; and such county in which said property was located
43 at the earliest taxable date shall have priority in the collection
44 of such taxes. All taxes assessed on stock of goods or
45 merchandise shall be based on the value of the inventory on
46 January 1 of the tax year or the average monthly inventory during
47 the preceding twelve (12) months from January 1 of each year and
48 are specifically made a lien thereon regardless of changes in the
49 items of which it may be composed; and no such property shall be
50 exempt from distress or sale for taxes. It shall not be necessary
51 to the validity of any assessment or of a sale of land for taxes
52 that it shall be assessed to its true owner, but the taxes shall
53 be a charge upon the land or personal property taxed and the sale
54 shall be a proceeding against the thing sold and shall vest title
55 in the purchaser without regard to who may own the land or other
56 property when assessed, or when sold, or whether wrongfully
57 assessed either to a person or to the state or any county, city,
58 town or village, or subdivision of either. Provided, however,
59 that the lien for municipal taxes shall be secondary and
60 subordinate to the lien for state and county taxes.

61 (2) Heavy duty equipment shall mean any motor vehicle used
62 primarily off the road for construction purposes whose gross
63 weight exceeds sixteen thousand (16,000) pounds but shall not
64 include inventory on hand for sale by duly licensed heavy
65 equipment dealers.

66 (3) With respect to lands owned by the state, which lands
67 are leased to private agricultural enterprises and taxable under
68 Section 47-5-66, the tax lien provided for in this section shall

69 attach and be enforceable in the same manner as are other tax
70 liens at the time the crop is harvested.

71 (4) Any outstanding tax lien on real property acquired from
72 a private person, partnership, company, corporation or other legal
73 entity by the state, a county, a municipality or other
74 governmental entity in its proprietary capacity or through
75 exercise of the power of eminent domain shall be extinguished, by
76 operation of law, immediately upon acquisition of the property by
77 the governmental entity. The rights of a person acquiring such
78 property at a valid tax sale made before acquisition of the
79 property by the governmental entity shall not be limited or
80 affected, but any tax sale made after the property is acquired by
81 a governmental entity shall be void as to such property.

82 SECTION 2. Section 27-35-3, Mississippi Code of 1972, is
83 amended as follows:

84 27-35-3. All taxable real property situated in the state
85 acquired or held by any person before January 1 of each year, and
86 all other taxable property so situated or brought into this state
87 at any time prior to March 1 of each year, shall be assessed and
88 taxes thereon paid for the ensuing year with the exception of
89 heavy duty equipment as defined in Section 27-35-1(2). Heavy duty
90 equipment shall be assessed and taxes thereon paid at any time
91 such equipment is acquired or brought into this state for use as
92 construction equipment, and such assessment shall be prorated with
93 respect to the number of months remaining in the year. Such other
94 property shall not be assessed by more than one (1) county, and
95 such county in which said property was located at the earliest
96 taxable date in any year shall have priority in the assessment of
97 such taxes.

98 Provided, however, that when a municipality is created or the
99 corporate limits thereof extended after January 1 of any year it
100 shall have, prior to July 1 of said year, the full right and power
101 to assess said property and collect taxes for the current year to

102 the same extent as if it had been created or limits extended prior
103 to January 1 of that year.

104 Whenever real property is acquired from a private person,
105 partnership, company, corporation or other legal entity by the
106 state, a county, a municipality or other governmental entity in
107 its proprietary capacity or through exercise of the power of
108 eminent domain, the tax assessor of the county in which the
109 property is located shall reassess and prorate the taxes due,
110 taking into account the amount and value of the property acquired
111 and the date upon which title is transferred to the governmental
112 entity. The taxpayer shall be assessed taxes only for that part
113 of the year preceding the date that title to the property is
114 transferred to the governmental entity, and the property shall be
115 exempt from taxation for the remainder of the year.

116 Nothing in this section shall be construed to limit the power
117 of the state to define and declare the situs of particular species
118 of property having no fixed situs at some place in this state.

119 SECTION 3. Section 27-35-5, Mississippi Code of 1972, is
120 amended as follows:

121 27-35-5. Every lawful tax including all increases, penalties
122 and interest which may be or become owing or assessed, levied or
123 imposed by the state or by a county, municipality or levee board,
124 whether ad valorem (including all school district taxes),
125 privilege, excise, income or inheritance, is a debt due by the
126 person or corporation owning the property or carrying on the
127 business or profession upon which the tax is levied or imposed,
128 whether properly assessed or not, or by the person liable for the
129 income, inheritance or excise tax, and may be recovered by action
130 by any officer authorized to sue for or collect same. Said
131 increases, interest and penalties shall be recoverable as a part
132 of the tax with respect to which they are imposed. The recovery
133 of a personal judgment for taxes on land or personal property
134 against the owner shall not extinguish the tax lien. In all

135 actions for the recovery of ad valorem taxes the assessment roll
136 shall be only prima facie correct.

137 Whenever real property is acquired by a governmental entity,
138 there shall be no personal liability for any ad valorem taxes
139 that, after the date of acquisition, are assessed upon the
140 property.

141 SECTION 4. This act shall take effect and be in force from
142 and after its passage.