

By: Representative Snowden

To: Ways and Means

## HOUSE BILL NO. 1094

1 AN ACT TO AMEND SECTIONS 27-41-55 AND 27-41-59, MISSISSIPPI  
2 CODE OF 1972, WHICH RELATE TO THE CONDUCT OF THE SALE OF LAND FOR  
3 UNPAID AD VALOREM TAXES, TO REQUIRE ACTUAL NOTICE IN ADVANCE OF  
4 THE PENDING TAX SALE TO THE OWNER OF, ALONG WITH ANY MORTGAGEE,  
5 BENEFICIARY OR LIENHOLDER OF RECORD WITH REGARD TO, THE LAND; TO  
6 AMEND SECTIONS 27-43-1, 27-43-3, 27-43-5 AND 27-43-7, MISSISSIPPI  
7 CODE OF 1972, IN CONFORMITY THERETO; AND FOR RELATED PURPOSES.

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

9 **SECTION 1.** Section 27-41-55, Mississippi Code of 1972, is  
10 amended as follows:

11 27-41-55. (1) At least thirty (30) days before a tax sale  
12 as referred to in subsection (2) of this section and as described  
13 in Section 27-41-59 is conducted, the tax collector shall provide  
14 actual notice to the owner of, and to any mortgagee, beneficiary  
15 or lienholder of record with regard to, the land that is liable to  
16 sale for taxes not paid. The mortgagee, beneficiary or lienholder  
17 shall be entitled to the notice, regardless of whether the  
18 mortgage or lien has been in existence over six (6) years. Actual  
19 notice may be by personal service, or by certified mail return  
20 receipt requested, to the owner's, mortgagee's, beneficiary's or  
21 lienholder's last known available address, the address of public  
22 record in the chancery clerk's office of the county in which the  
23 land is located or the address of public record in the Office of  
24 the Secretary of State. Failure to provide the notice that is  
25 required in this subsection shall invalidate a subsequent sale of  
26 land as described in subsection (2) of this section and Section  
27 27-41-59.

28 (2) Except as otherwise provided in Section 27-41-2, after  
29 the fifth day of August in each year hereafter, the tax collector

30 shall advertise all lands in his county on which all the taxes due  
31 and in arrears have not been paid, as provided by law, as well as  
32 all land which is liable to sale for the other taxes which have  
33 matured, as required by law, for sale at the door of the  
34 courthouse of his county or any place within the courthouse that  
35 the tax collector deems suitable to hold such sale, provided that  
36 the place of such sale shall be designated by the tax collector in  
37 the advertisement of the notice of tax sale on the last Monday of  
38 August. Such advertisement shall be inserted for two (2) weeks in  
39 some newspaper published in the county, if there be one, but in  
40 counties having two (2) court districts the lands shall be  
41 advertised and sold in the district in which such lands are  
42 situated and put up at the courthouse door thereof, and shall  
43 contain a list of the lands to be sold in alphabetical order by  
44 owner or in numerical order as they are contained in the  
45 assessment roll, in substance as follows:

46	Name of	Division of	Town-	State	County	Total	
47	Owner	Section	ship	Range	Tax	Tax	Tax

48 or by such other description as it may be assessed. Land in  
49 cities and towns shall be described in the advertisement as it is  
50 described on the assessment roll. Errors in alphabetical or  
51 numerical order in the published or posted list of lands to be  
52 sold shall not invalidate any sale made pursuant to such notice.

53 In addition to the foregoing provisions, and at the option of  
54 the tax collector, advertisement for the sale of such county lands  
55 may be made after the fifteenth day of February in each year with  
56 the sale of such lands to be held on the first Monday of April in  
57 each year, and all of the provisions which relate to the tax sale  
58 held in August of each year shall apply thereto.

59 **SECTION 2.** Section 27-41-59, Mississippi Code of 1972, is  
60 amended as follows:

61 27-41-59. (1) At least thirty (30) days before a tax sale  
62 is conducted under this section, the tax collector shall provide

63 actual notice to the owner of, and to any mortgagee, beneficiary  
64 or lienholder of record with regard to, the land that is liable to  
65 sale for taxes not paid. The mortgagee, beneficiary or lienholder  
66 shall be entitled to the notice, regardless of whether the  
67 mortgage or lien has been in existence over six (6) years. Actual  
68 notice may be by personal service, or by certified mail return  
69 receipt requested, to the owner's, mortgagee's, beneficiary's or  
70 lienholder's last known available address, the address of public  
71 record in the chancery clerk's office of the county in which the  
72 land is located or the address of public record in the Office of  
73 the Secretary of State. Failure to provide the notice that is  
74 required in this subsection shall invalidate a subsequent sale of  
75 land as described in this section.

76       (2) Except as otherwise provided in Section 27-41-2, on the  
77 first Monday of April, if the tax collector has exercised his  
78 option to hold a tax sale on that day, and on the last Monday of  
79 August, as the case may be, if the taxes remain unpaid, the tax  
80 collector shall proceed to sell, for the payment of taxes then  
81 remaining due and unpaid, together with all fees, penalties and  
82 damages provided by law, the land or so much and such parts of the  
83 land of each delinquent taxpayer to the highest and best bidder  
84 for cash as will pay the amount of taxes due by him and all costs  
85 and charges. He shall first offer one hundred sixty (160) acres  
86 or a smaller separately described subdivision, if the land is less  
87 than one hundred sixty (160) acres. If the first parcel so  
88 offered does not produce the amount due, then he shall offer as an  
89 entirety all the land constituting one (1) tract. Each separate  
90 assessment as it appears and is described on the assessment roll  
91 shall constitute one (1) tract for the purpose of sale for taxes,  
92 notwithstanding the fact that the person who is the owner thereof,  
93 or to whom it is assessed, is the owner of or is assessed with  
94 other lands, the whole of which constitutes one (1) entire tract  
95 but appears on the assessment roll in separate subdivisions. Upon

96 offering the land of any delinquent taxpayer constituting one (1)  
97 tract, if no person will bid for it, the whole amount of taxes and  
98 all costs incident to the sale, the tax collector shall strike it  
99 off to the state. The sale shall be continued from day to day  
100 within the hours from 8:30 o'clock in the forenoon and 4:30  
101 o'clock in the afternoon until completed; but neither a failure to  
102 advertise, nor error in the advertisement, nor error in conducting  
103 the sale, shall invalidate a sale at the proper time and place for  
104 taxes of any land on which the taxes were due and not paid, but a  
105 sale made at the wrong time or at the wrong place shall be void.  
106 Any person sustaining damages by reason of any failure or error by  
107 the tax collector may recover damages therefor on his official  
108 bond.

109 **SECTION 3.** Section 27-43-1, Mississippi Code of 1972, is  
110 amended as follows:

111 27-43-1. The clerk of the chancery court shall, within one  
112 hundred eighty (180) days and not less than sixty (60) days prior  
113 to the expiration of the time of redemption with respect to land  
114 sold, either to individuals or to the state, be required to issue  
115 notice, in accordance with the provisions of Section 27-43-3, to  
116 the record owner of the land sold as of one hundred eighty (180)  
117 days prior to the expiration of the time of redemption, in effect  
118 following, to wit:

119 "State of Mississippi, To \_\_\_\_\_,  
120 County of \_\_\_\_\_

121 You will take notice that \_\_\_\_\_ (here describe  
122 lands) \_\_\_\_\_ lands assessed to you or supposed to be  
123 owned by you, was, on the \_\_\_\_\_ day of  
124 \_\_\_\_\_ sold to \_\_\_\_\_ for the taxes of  
125 \_\_\_\_\_ year \_\_\_\_\_, and that the title to  
126 said land will become absolute in \_\_\_\_\_ unless  
127 redemption from said tax sale be made on or before  
128 \_\_\_\_\_ day of \_\_\_\_\_.

129 This \_\_\_\_\_ day of \_\_\_\_\_ 2\_\_\_\_\_  
130 \_\_\_\_\_ Clerk."

131 **SECTION 4.** Section 27-43-3, Mississippi Code of 1972, is  
132 amended as follows:

133 27-43-3. The clerk shall issue the notice to the sheriff of  
134 the county of the reputed owner's residence, if he be a resident  
135 of the State of Mississippi, and the sheriff shall be required to  
136 serve personal notice as summons issued from the courts are  
137 served, and make his return to the chancery clerk issuing same.  
138 The clerk shall also mail a copy of same to the reputed owner at  
139 his usual street address, if same can be ascertained after  
140 diligent search and inquiry, or to his post office address if only  
141 that can be ascertained, and he shall note such action on the tax  
142 sales record. The clerk shall also be required to publish the  
143 name and address of the reputed owner of the property and the  
144 legal description of such property in a public newspaper of the  
145 county in which the land is located, or if no newspaper is  
146 published as such, then in a newspaper having a general  
147 circulation in such county. Such publication shall be made at  
148 least forty-five (45) days prior to the expiration of the  
149 redemption period.

150 If said reputed owner is a nonresident of the State of  
151 Mississippi, then the clerk shall mail a copy of said notice  
152 thereto in the same manner as hereinabove set out for notice to a  
153 resident of the State of Mississippi, except that personal notice  
154 served by the sheriff shall not be required.

155 Notice by mail shall be by registered or certified mail. In  
156 the event the notice by mail is returned undelivered and the  
157 personal notice as hereinabove required to be served by the  
158 sheriff is returned not found, then the clerk shall make further  
159 search and inquiry to ascertain the reputed owner's street and  
160 post office address. If the reputed owner's street or post office  
161 address is ascertained after the additional search and inquiry,

162 the clerk shall again issue notice as hereinabove set out. If  
163 personal notice is again issued and it is again returned not found  
164 and if notice by mail is again returned undelivered, then the  
165 clerk shall file an affidavit to that effect and shall specify  
166 therein the acts of search and inquiry made by him in an effort to  
167 ascertain the reputed owner's street and post office address and  
168 said affidavit shall be retained as a permanent record in the  
169 office of the clerk and such action shall be noted on the tax  
170 sales record. If the clerk is still unable to ascertain the  
171 reputed owner's street or post office address after making search  
172 and inquiry for the second time, then it shall not be necessary to  
173 issue any additional notice but the clerk shall file an affidavit  
174 specifying therein the acts of search and inquiry made by him in  
175 an effort to ascertain the reputed owner's street and post office  
176 address and said affidavit shall be retained as a permanent record  
177 in the office of the clerk and such action shall be noted on the  
178 tax sale record.

179 For examining the records to ascertain the record owner of  
180 the property, the clerk shall be allowed a fee of Twenty Dollars  
181 (\$20.00); for issuing the notice the clerk shall be allowed a fee  
182 of Two Dollars (\$2.00) and, for mailing same and noting such  
183 action on the tax sales record, a fee of One Dollar (\$1.00); and  
184 for serving the notice, the sheriff shall be allowed a fee of Four  
185 Dollars (\$4.00). For issuing a second notice, the clerk shall be  
186 allowed a fee of Five Dollars (\$5.00) and, for mailing same and  
187 noting such action on the tax sales record, a fee of Two Dollars  
188 and Fifty Cents (\$2.50), and for serving the second notice, the  
189 sheriff shall be allowed a fee of Four Dollars (\$4.00). The clerk  
190 shall also be allowed the actual cost of publication. Said fees  
191 and cost shall be taxed against the owner of said land if the same  
192 is redeemed, and if not redeemed, then said fees are to be taxed  
193 as part of the cost against the purchaser. The failure of  
194 the landowner to actually receive the notice herein required shall

195 not render the title void, provided the clerk and sheriff have  
196 complied with the duties herein prescribed for them.

197 Should the clerk inadvertently fail to send notice as  
198 prescribed in this section, then such sale shall be void and the  
199 clerk shall not be liable to the purchaser or owner upon refund of  
200 all purchase money paid.

201 At least forty-five (45) days before the sale of the land for  
202 unpaid taxes is conducted under Sections 27-41-55 and 27-41-59,  
203 the clerk shall forward to the county tax collector the last known  
204 available address or address of public record in the clerk's  
205 office of the owner of the land which will be the subject of the  
206 pending tax sale.

207 **SECTION 5.** Section 27-43-5, Mississippi Code of 1972, is  
208 amended as follows:

209 27-43-5. It shall be the duty of the clerk of the chancery  
210 court to examine the record of deeds, mortgages and deeds of trust  
211 in his office to ascertain the names and addresses of all  
212 mortgagees, beneficiaries and holders of vendors liens of all  
213 lands sold for taxes; and he shall, within the time fixed by law  
214 for notifying owners, send by certified mail with return receipt  
215 requested to all such lienors so shown of record the following  
216 notice, to wit:

217 "State of Mississippi, To \_\_\_\_\_,  
218 County of \_\_\_\_\_

219 You will take notice that \_\_\_\_\_ (here describe  
220 lands) assessed to, or supposed to be owned by \_\_\_\_\_  
221 was on the \_\_\_\_\_ day of \_\_\_\_\_, 2 \_\_\_\_, sold to  
222 \_\_\_\_\_ for the taxes of \_\_\_\_\_ (giving  
223 year) upon which you have a lien by virtue of the instrument  
224 recorded in this office in \_\_\_\_\_ Book \_\_\_\_\_, page \_\_\_\_\_, dated  
225 \_\_\_\_\_, and that the title to said land will become  
226 absolute in said purchaser unless redemption from said sale be  
227 made on or before the \_\_\_\_\_ day of May of 2 \_\_\_\_.

228 This \_\_\_\_\_ day of \_\_\_\_\_, 2 \_\_\_\_ .

229 \_\_\_\_\_

230 Chancery Clerk of \_\_\_\_\_ County, Miss."

231 At least forty-five (45) days before the sale of the land for  
232 unpaid taxes is conducted under Sections 27-41-55 and 27-41-59,  
233 the clerk shall forward to the county tax collector the last known  
234 available address or address of public record in the clerk's  
235 office of any mortgagee, beneficiary or holder of a vendor's lien  
236 on the land which will be the subject of the pending tax sale.

237 **SECTION 6.** Section 27-43-7, Mississippi Code of 1972, is  
238 amended as follows:

239 27-43-7. The notice shall be mailed to said lienors, if any,  
240 to the post-office address of the lienors, as such address is set  
241 forth in the instrument creating the lien, otherwise to the  
242 post-office address of said lienors, if actually known to the  
243 clerk, and if unknown to the clerk then addressed to the last  
244 known available address as may be specified for the lienor in  
245 public records of the Office of the Secretary of State.

246 **SECTION 7.** This act shall take effect and be in force from  
247 and after its passage.