

By: Senator(s) Robertson

To: Finance

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 2751

1 AN ACT TO AMEND SECTION 27-65-55, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE THAT OFFICERS AND AGENTS OF CORPORATIONS AND LIMITED
3 LIABILITY COMPANIES THAT HAVE CONTROL OVER THE PAYMENT OF TAXES
4 AND WHO EXERCISE RESPONSIBILITY FOR FISCAL MANAGEMENT, SHALL BE
5 JOINTLY AND SEVERALLY LIABLE FOR SALES TAXES; AND FOR RELATED
6 PURPOSES.

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

8 **SECTION 1.** Section 27-65-55, Mississippi Code of 1972, is
9 amended as follows:

10 27-65-55. (1) The tax imposed by this chapter shall be a
11 lien upon the property of any person subject to the provisions
12 thereof who shall sell out his business or stock of goods, or
13 shall quit business, and such person shall be required to make out
14 the return provided for under Section 27-65-33 within ten (10)
15 days after the date he sold out his business or stock of goods, or
16 quit business, and pay the tax imposed by this chapter. The
17 purchaser or transferee in business shall be required to withhold
18 sufficient of the purchase money to cover the amount of any taxes,
19 damages and interest due until such time as the former owner shall
20 produce a receipt from the commissioner showing that such
21 liability has been paid, or a certificate that no taxes are due.
22 In the event the former owner shall fail to pay any taxes, damages
23 and interest due the state within the time allowed, the successor
24 in business shall pay such taxes, damages and interest to the
25 commissioner upon demand. If the purchaser or transferee of a
26 business or stock of goods shall fail to withhold purchase money
27 as provided and the taxes, damages and interest shall be due and
28 unpaid after the period of ten (10) days allowed, he shall be
29 personally liable for the payment of taxes, damages and interest

30 of the former owner, and the property sold or transferred may be
31 proceeded against by the commissioner in the hands of the
32 purchaser or transferee as though no sale or transfer had been
33 made.

34 (2) Any person who exercises responsibility for fiscal
35 management and owns * * * ten percent (10%) or more of the * * *
36 stock of a corporation or ten percent (10%) or more interest in a
37 limited liability company, * * * or any person who is an officer
38 or agent of a corporation or limited liability company and has
39 control over the collection or payment of sales taxes by the
40 corporation or limited liability company, shall be jointly and
41 severally liable for sales taxes levied by this chapter upon such
42 corporations or limited liability companies when such taxes become
43 due and unpaid to the extent that such taxes accrued while such
44 person was exercising responsibility for fiscal management or
45 control over the collection and payment of sales taxes by the
46 corporation or limited liability company. The commissioner shall
47 make assessments against said persons of such taxes, damages and
48 interest, and effect collection by the same procedures herein
49 provided for assessment and collection of all taxes levied by this
50 chapter.

51 (3) Any person, acting as agent for a dealer who has no
52 permanent place of business in this state, who sells tangible
53 personal property in this state, either at auction or as a
54 transient vendor, shall be liable for collection of sales tax,
55 where applicable, and payment of the same of this state unless the
56 vendor principal is authorized to collect the tax and is
57 registered under Section 27-65-27. Such persons shall maintain
58 for a period of three (3) years adequate records which shall be
59 available for inspection by the commissioner or his agent and
60 which shall reveal the true sales tax liability of all parties to
61 each transaction. Failure to maintain and permit examination of
62 such records shall render the agent liable for sales tax accruing

63 from all sales as determined by the commissioner from any
64 information available. The commissioner shall effect collection
65 by the same procedures herein provided for assessment and
66 collection of all taxes levied by this chapter.

67 **SECTION 2.** This act shall take effect and be in force from
68 and after July 1, 2005.