

By: Representative Upshaw (By Request)

To: Judiciary A

HOUSE BILL NO. 643

1 AN ACT TO AMEND SECTIONS 85-7-131, 85-7-133 AND 85-7-261,  
2 MISSISSIPPI CODE OF 1972, TO REQUIRE PROOF OF CLAIM AND  
3 IDENTIFYING INFORMATION TO PLACE CERTAIN LIENS ON PROPERTY; AND  
4 FOR RELATED PURPOSES.

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

6 **SECTION 1.** Section 85-7-131, Mississippi Code of 1972, is  
7 amended as follows:

8 85-7-131. Every house, building, water well or structure of  
9 any kind, and any fixed machinery, gearing or other fixture that  
10 may or may not be used or connected therewith, railroad  
11 embankment, erected, constructed, altered or repaired, and every  
12 subdivision of property or subdivided property which required  
13 services, designs or construction in designing or laying out of  
14 streets or subdividing or construction of streets, sewerage, water  
15 or other utilities to be furnished by the said subdivision or by  
16 the various owners or holders or creators of said subdivision or  
17 subdivided property or individual lot or lots in connection  
18 therewith, whether inside of a municipality or outside thereof,  
19 shall be liable for the debt contracted and owing, for labor done  
20 or materials furnished, or architectural engineers' and surveyors'  
21 or contractors' service rendered about the erection, construction,  
22 alteration or repairs thereof; and debt for such services or  
23 construction shall be a lien thereon. The architects, engineers,  
24 surveyors, laborers, and materialmen and/or contractors who  
25 rendered services and constructed the improvements shall have a  
26 lien therefor. Further, as to oil and gas wells, the operator  
27 thereof shall have such a lien upon the interest of each  
28 nonoperator owner of an interest in the mineral leasehold estate

29 for such nonoperator's proportionate part of such labor, material  
30 and services rendered by the operator or for the operator's  
31 account in behalf of each nonoperator in the drilling, completion,  
32 recompletion, reworking or other operations of such oil and gas  
33 well. If such house, building, structure, or fixture be in a  
34 city, town or village, the lien shall extend to and cover the  
35 entire lot of land on which it stands and the entire curtilage  
36 thereto belonging; or, if not in a city, town or village, the lien  
37 shall extend to and cover one (1) acre of land on which the same  
38 may stand, if there be so much, to be selected by the holder of  
39 the lien. If the structure be a water well, the lien shall extend  
40 only to all pumps, pipes, equipment therein and all water well  
41 appurtenances. If the structure be an oil or gas well, the lien  
42 shall extend to the nonoperator's interest in the mineral estate  
43 and the fixtures and equipment in the producing unit assigned such  
44 well by the State Oil and Gas Board. If the structure be a  
45 railroad or railroad embankment, the lien shall extend to and  
46 cover the entire roadbed and right-of-way, depots and other  
47 buildings used or connected therewith. If the services of the  
48 architect, surveyor, engineer, laborers, materialmen or of the  
49 contractors shall be upon the whole subdivision, the lien shall  
50 extend to and cover the entire subdivision; but if a part only of  
51 the land is subdivided and laborers', materialmen's, architects',  
52 surveyors' or engineers' services are required and contractors are  
53 employed, then the lien shall extend to only that portion of said  
54 property upon which the services were required or upon which or in  
55 connection with which the work was done or the materials were  
56 furnished. Such lien shall take effect as to purchasers or  
57 encumbrancers for a valuable consideration without notice thereof,  
58 only from the time of commencing suit to enforce the lien, or from  
59 the time of filing the contract under which the lien arose, or  
60 notice thereof, in the office of the clerk of the chancery court,  
61 as hereinafter stated; delivery of material to the job is prima

62 facie evidence of its use therein, and use of water from a water  
63 well is prima facie evidence of acceptability of well. In the  
64 case of oil and gas wells, such lien shall take effect as to  
65 purchasers or encumbrancers for a valuable consideration without  
66 notice thereof, only from the time of filing notice of such lien  
67 as provided by Section 85-7-133. A party having a lien on  
68 property shall show proof of a claim to exercise such lien. Proof  
69 of a claim shall state the contractual basis of such claim and  
70 shall include the social security number and driver's license  
71 number of the party making the lien.

72 **SECTION 2.** Section 85-7-133, Mississippi Code of 1972, is  
73 amended as follows:

74 85-7-133. Each of the several chancery clerks of this state  
75 shall provide in his office, as a part of the land records of his  
76 county, a record entitled "Notice of Construction Liens" wherein  
77 notices under Section 85-7-131 shall be filed and recorded, and  
78 such liens, as provided hereunder, shall not take effect unless  
79 and until some notation thereof shall be filed and recorded in  
80 said record showing a description of the property involved, the  
81 name of the lienor or lienors, the social security and driver's  
82 license numbers of the lienor or lienors, the date of filing, if  
83 and where suit is filed, and if and where contract is filed or  
84 recorded.

85 **SECTION 3.** Section 85-7-261, Mississippi Code of 1972, is  
86 amended as follows:

87 85-7-261. Unless otherwise expressly provided, the liens  
88 created or mentioned in this chapter shall exist by virtue of the  
89 relation of the parties, and without any writing, or if in  
90 writing, without recording; and the rights and liens conferred may  
91 be asserted and enforced by the assigns and personal  
92 representatives of the lienor. A lien under Section 85-7-131  
93 shall include the identifying information of the lienor as  
94 required under that section.

95           **SECTION 4.** This act shall take effect and be in force from  
96 and after July 1, 2007.