

By: Representative Smith (39th)

To: Judiciary B

HOUSE BILL NO. 1264

1 AN ACT TO AMEND SECTIONS 27-53-15, 63-21-30, 63-21-43 AND
2 63-21-45, MISSISSIPPI CODE OF 1972, TO CLARIFY HOW TO PERFECT A
3 LIEN ON A MOBILE HOME; AND FOR RELATED PURPOSES.

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

5 **SECTION 1.** Section 27-53-15, Mississippi Code of 1972, is
6 amended as follows:

7 27-53-15. (1) The manufactured homeowner or mobile
8 homeowner who owns the land on which the manufactured home or
9 mobile home is located shall have the option * * * of declaring
10 whether the manufactured home or mobile home shall be classified
11 as personal or real property by surrendering to the State Tax
12 Commission the certificate of title or certificate of origin and
13 by providing the following documentation:

14 (a) Certificate of Affixation. If the manufactured
15 home or mobile home is to be classified as real property, then the
16 wheels and axles must be removed and it must be anchored and
17 blocked in accordance with the rules and procedures promulgated by
18 the Commissioner of Insurance of the State of Mississippi. After
19 the wheels and axles have been removed and the manufactured home
20 or mobile home has been anchored and blocked in accordance with
21 such rules and procedures, the manufactured home or mobile home
22 shall be considered to have been affixed to a permanent
23 foundation. The county tax assessor shall then enter the
24 manufactured home or mobile home on the land rolls and tax it as
25 real property on the land on which it is located from the date of
26 registration. At such time, the county tax assessor shall issue a
27 certificate certifying that the manufactured home or mobile home

28 has been classified as real property. Such certificate shall
29 contain the name of the owner of the manufactured home or mobile
30 home, the name of the manufacturer, the model, the serial number
31 and the legal description of the real property on which the
32 manufactured home or mobile home is located. The county tax
33 assessor shall cause such certificate to be filed in the land
34 records of the county in which the property is situated. After
35 filing, the chancery clerk shall forward the certificate to the
36 owner. For issuance of the certificate, a fee of Twelve Dollars
37 (\$12.00) shall be collected by the county tax assessor, Ten
38 Dollars (\$10.00) of which shall be retained by the assessor and
39 Two Dollars (\$2.00) of which shall be forwarded to the chancery
40 clerk for filing the certificate. Upon the filing of the
41 certificate in the land records, the manufactured home or mobile
42 home shall then be considered real property for purposes of ad
43 valorem taxation.

44 (b) A copy of the deed or other instrument of
45 conveyance of legal ownership to the real property to which the
46 manufactured home has become affixed conveying fee simple title or
47 other ownership interest in the subject real property and which
48 has been filed in the office of the chancery clerk in the county
49 in which the real property is located. The mortgage or deed of
50 trust shall include a description of the mobile home or
51 manufactured home which is affixed to the real property, however,
52 the failure of a mortgage or deed of trust to describe the mobile
53 home or manufactured home shall not affect the priority or
54 perfection of a lienholder's security interest in said mobile home
55 or manufactured home. Further more, if any mobile home or
56 manufactured home shall have a duly filed Certificate of
57 Affixation, a rebuttable presumption of a perfected first lien on
58 said mobile home shall inure to the benefit of any lienholder with
59 a valid deed of trust or mortgage to the real property to which
60 the mobile home or manufactured home has been affixed.

61 (c) If the legal owner of a manufactured home, and the
62 real property to which the manufactured home has become affixed,
63 desires a surrendered certificate of title to be reissued, the
64 legal owner shall:

65 (i) Reapply for a new certificate pursuant to the
66 provisions of Chapter 21, Title 63, Mississippi Code of 1972;

67 (ii) Provide an abstract of land title showing
68 legal ownership of the manufactured home and real property along
69 with any liens recorded upon the real property;

70 (iii) For every lienholder listed on the abstract
71 of land title, provide a lien release as to the manufactured home
72 or lienor's statement that such lien is to be recorded on the face
73 of the certificate of title for the manufactured home; and

74 (iv) Pay the required fee for the certificate of
75 title for the manufactured home or each component unit. Upon such
76 request, the tax assessor may issue a certificate cancelling the
77 classification of the manufactured home or mobile home as real
78 property and cause such certification to be filed in the land
79 records of the county in which the property is situated. For
80 issuance of the certificate, a fee of Twelve Dollars (\$12.00)
81 shall be collected by the county tax assessor, Ten Dollars
82 (\$10.00) of which shall be retained by the assessor and Two
83 Dollars (\$2.00) of which shall be forwarded to the chancery clerk
84 for filing the certificate.

85 **SECTION 2.** Section 63-21-30, Mississippi Code of 1972, is
86 amended as follows:

87 63-21-30. The certificate of title issued for a manufactured
88 home that is classified as real property may be mailed or
89 delivered to the State Tax Commission for cancellation. In order
90 to have the manufactured home or mobile home classified as real
91 property, the owner shall first obtain a release of any lien
92 indicated on the certificate of title, if any such certificate was
93 issued, or a lienor's statement that the lienor's security

94 interest in the manufactured home or mobile home shall be
95 perfected by mortgage or deed of trust. The State Tax Commission
96 may require any documents or information that it considers
97 necessary to be mailed or delivered to the commission along with
98 the certificate of title.

99 **SECTION 3.** Section 63-21-43, Mississippi Code of 1972, is
100 amended as follows:

101 63-21-43. (1) Unless excepted by Section 63-21-41, a
102 security interest in a vehicle, or any manufactured home or mobile
103 home which is not affixed to real property, is not valid against
104 creditors of the owner or subsequent transferees or lienholders of
105 the vehicle, manufactured home or mobile home unless perfected as
106 provided in this chapter.

107 (2) (a) A security interest is perfected at the time the
108 owner signs a security agreement describing the vehicle,
109 manufactured home or mobile home, the secured party gives value,
110 the owner has rights in the vehicle, manufactured home or mobile
111 home, and an application for certificate of title signed by the
112 owner is presented to a designated agent.

113 (b) The designated agent shall deliver to the State Tax
114 Commission the existing certificate of title, if any, or
115 manufacturer's certificate of origin and application for a
116 certificate of title containing the name and address of the
117 lienholder and the date of his security agreement, and the
118 required fee, but the security interest will perfect at the time
119 the requirements of subsection 2(a) of this section are met.

120 (c) When a manufacturer's statement of origin or an
121 existing certificate of title on a motor vehicle, manufactured
122 home or mobile home is unavailable, a first lienholder or the
123 first lienholder's designee may file a notarized copy of an
124 instrument creating and evidencing a lien or encumbrance on such
125 motor vehicle with the State Tax Commission and shall remit
126 therewith the appropriate information for each lien to be filed.

127 Such recording and filing shall constitute constructive notice of
128 such lien against the motor vehicle described therein to creditors
129 of the owner, subsequent purchasers and encumbrancers, except such
130 liens as are by law dependent upon possession.

131 (3) If a vehicle, manufactured home or mobile home is
132 subject to a security interest when brought into this state, the
133 validity of the security interest is determined by the law of the
134 jurisdiction where the vehicle, manufactured home or mobile home
135 was when the security interest attached, subject to the following:

136 (a) If the parties understood at the time the security
137 interest attached that the vehicle, manufactured home or mobile
138 home would be kept in this state and it was brought into this
139 state within thirty (30) days thereafter for purposes other than
140 transportation through this state, the validity of the security
141 interest in this state is determined by the law of this state.

142 (b) If the security interest was perfected under the
143 law of the jurisdiction where the vehicle, manufactured home or
144 mobile home was when the security interest attached, the following
145 rules apply:

146 (i) If the name of the lienholder is shown on an
147 existing certificate of title issued by that jurisdiction, his
148 security interest continues perfected in this state.

149 (ii) If the name of the lienholder is not shown on
150 an existing certificate of title issued by that jurisdiction the
151 security interest continues perfected in this state for four (4)
152 months after a first certificate of title of the vehicle,
153 manufactured home or mobile home is issued in this state, and also
154 thereafter if, within the period of four (4) months, it is
155 perfected in this state. The security interest may also be
156 perfected in this state after the expiration of the period of four
157 (4) months, in which case perfection dates from the time of
158 perfection in this state.

159 (c) If the security interest was not perfected under
160 the law of the jurisdiction where the vehicle, manufactured home
161 or mobile home was when the security interest attached, it may be
162 perfected in this state, in which case perfection dates from the
163 time of perfection in this state.

164 (d) A security interest may be perfected under
165 paragraph (b)(ii) or paragraph (c) of this subsection, either as
166 provided in subsection (2), or by the holder of the lien created
167 out of this state delivering to a county tax collector or a
168 designated agent a notice of security interest in the form the
169 State Tax Commission prescribes, together with documents to
170 support the security interest as required by the State Tax
171 Commission and the required fee. The county tax collector or a
172 designated agent shall process said notice in the manner
173 prescribed by the State Tax Commission.

174 **SECTION 4.** Section 63-21-45, Mississippi Code of 1972, is
175 amended as follows:

176 63-21-45. (1) If an owner, dealer or lienholder creates a
177 security interest in a vehicle, manufactured home or mobile home:

178 (a) The owner shall immediately execute the application
179 in the space provided therefor on the certificate of title, or on
180 a separate form the State Tax Commission prescribes to name the
181 lienholder on the certificate showing the name and address of the
182 lienholder and the date of his security agreement, and cause the
183 certificate, application and the required fee to be delivered to
184 the lienholder.

185 (b) The lienholder shall immediately cause the
186 certificate, application and required fee to be mailed or
187 delivered to a county tax collector or a designated agent.

188 (c) Upon request of the owner or subordinate
189 lienholder, a lienholder in possession of the certificate of title
190 shall either mail or deliver the certificate to the subordinate
191 lienholder for delivery to a county tax collector or a designated

192 agent or, upon receipt from the subordinate lienholder of the
193 owner's application and the required fee, mail or deliver them to
194 a county tax collector or a designated agent with the certificate.
195 The delivery of the certificate does not affect the rights of the
196 first lienholder under his security agreement.

197 (d) Upon receipt of the certificate of title,
198 application and the required fee, the State Tax Commission shall
199 either endorse on the certificate or issue a new certificate
200 containing the name and address of the new lienholder, and mail
201 the certificate to the first lienholder named in it.

202 (2) Information evidencing a bank or lending institution's
203 lien or other security interest in a motor vehicle's, manufactured
204 home's or mobile home's certificate of title may be transferred by
205 electronic means as provided in Section 63-21-16.

206 **SECTION 5.** This act shall take effect and be in force from
207 and after July 1, 2007.