

By: Representative Calhoun

To: Ways and Means

## HOUSE BILL NO. 1265

1 AN ACT TO AMEND SECTION 27-45-3, MISSISSIPPI CODE OF 1972, TO  
2 PROVIDE THAT IN ORDER TO REDEEM LAND THAT HAS BEEN SOLD FOR  
3 NONPAYMENT OF AD VALOREM TAXES, THE PERSON PROPOSING TO REDEEM THE  
4 LAND ALSO MUST PAY THE VALUE OF CERTAIN IMPROVEMENTS MADE ON THE  
5 LAND AFTER THE LAND WAS SOLD; TO PROVIDE THE METHOD FOR  
6 DETERMINING THE VALUE OF SUCH IMPROVEMENTS; TO BRING FORWARD  
7 SECTIONS 27-45-1, 27-45-5, 27-45-7, 27-45-9 AND 27-45-27,  
8 MISSISSIPPI CODE OF 1972, WHICH RELATE TO THE REDEMPTION OF LAND  
9 SOLD FOR NONPAYMENT OF AD VALOREM TAXES; AND FOR RELATED PURPOSES.

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

11 **SECTION 1.** Section 27-45-3, Mississippi Code of 1972, is  
12 amended as follows:

13 27-45-3. The owner, or any persons for him with his consent,  
14 or any person interested in the land sold for taxes, may redeem  
15 the same, or any part of it, where it is separable by legal  
16 subdivisions of not less than forty (40) acres, or any undivided  
17 interest in it, at any time within two (2) years after the day of  
18 sale, by paying to the chancery clerk, regardless of the amount of  
19 the purchaser's bid at the tax sale, the amount of all taxes for  
20 which the land was sold, with all costs incident to the sale, and  
21 five percent (5%) damages on the amount of taxes for which the  
22 land was sold, and interest on all such taxes and costs at the  
23 rate of one and one-half percent (1-1/2%) per month, or any  
24 fractional part thereof, from the date of such sale, and all  
25 costs that have accrued on the land since the sale, with interest  
26 thereon from the date such costs shall have accrued, at the rate  
27 of one and one-half percent (1-1/2%) per month, or any fractional  
28 part thereof, the value of all permanent improvements made on the  
29 land since the sale with interest on the value of such  
30 improvements from the date the improvements were made, at the rate

31 of one percent (1%) per month or any fractional part thereof,  
32 saving only to infants who have or may hereafter inherit or  
33 acquire land by will and persons of unsound mind whose land may be  
34 sold for taxes, the right to redeem the same within two (2) years  
35 after attaining full age or being restored to sanity, from the  
36 state or any purchaser thereof, on the terms herein prescribed,  
37 and on their paying the value of any permanent improvements on the  
38 land made after the expiration of two (2) years from the date of  
39 the sale of the lands for taxes. Upon such payment to the  
40 chancery clerk as hereinabove provided, he shall execute to the  
41 person redeeming the land a release of all claim or title of the  
42 state or purchaser to such land, which said release shall be  
43 attested by the seal of the chancery clerk and shall be entitled  
44 to be recorded without acknowledgment, as deeds are recorded.  
45 Said release when so executed and attested shall operate as a  
46 quitclaim on the part of the state or purchaser of any right or  
47 title under said tax sale.

48 For the purposes of this section, "permanent improvements"  
49 shall include, but not be limited to, all repairs, improvements  
50 and equipment attached to the property as fixtures. The value of  
51 such permanent improvements shall be determined by averaging two  
52 (2) appraisals of the improvements, with one (1) appraisal made by  
53 an appraiser selected by the person proposing to redeem the  
54 property and the other appraisal made by an appraiser selected by  
55 the owner of the land at the time it was sold for taxes.

56 **SECTION 2.** Section 27-45-1, Mississippi Code of 1972, is  
57 brought forward as follows:

58 27-45-1. Redemption of land sold for taxes shall be made  
59 through the chancery clerks of the respective counties. Where the  
60 land was sold to the state, the clerk, out of the amount necessary  
61 to redeem, shall first pay to the officers entitled thereto the  
62 costs, fees and damages which are allowed said officers by law in  
63 cases of lands sold to individuals; second, he shall pay the state

64 the amount of state taxes with the interest and additional charges  
65 thereon allowed by law to the state; and, third, he shall pay to  
66 the county the sums computed in like manner which belong to the  
67 county and the various taxing districts thereof. Where the land  
68 was sold to an individual, the clerk shall pay:

69 (a) First, to the state the amount of state taxes with  
70 the interest and additional charges thereon allowed by law, unless  
71 same has been paid previously by the tax purchaser or some other  
72 person;

73 (b) Second, to the county the sums computed in like  
74 manner which belong to the county and the various taxing districts  
75 thereof, unless same has been paid previously by the tax purchaser  
76 or some other person;

77 (c) Third, to the county the five percent (5%) damages  
78 on the amount of the taxes for which the land was sold; and

79 (d) Fourth, the balance to the purchaser.

80 The clerk shall make his redemption settlements within twenty  
81 (20) days after the end of each month and shall make a complete  
82 report thereof to the board of supervisors, a true copy of which  
83 he shall file with the State Auditor. For a failure so to report  
84 or to pay over the sums to the parties entitled thereto as herein  
85 required, he shall be liable on his official bond to a penalty of  
86 one percent (1%) per month on the amount withheld. The chancery  
87 clerk shall also note each redemption on the public record of  
88 delinquent tax lands, on the day payment of taxes is made, with  
89 the date, name and the amount of redemption money paid.

90 **SECTION 3.** Section 27-45-5, Mississippi Code of 1972, is  
91 brought forward as follows:

92 27-45-5. It shall be the duty of the chancery clerk of each  
93 county in the state to immediately deposit in the county  
94 depository of his county all sums of money paid to him by any  
95 person for the redemption of land sold for taxes in his county;  
96 all such funds are hereby declared to be public funds, and shall

97 be secured by the county depository, as other public funds are  
98 required to be secured by law. The board of supervisors of each  
99 county shall provide the clerk with printed checks in the form of  
100 vouchers, with proper blanks, bound in book form with a sufficient  
101 blank margin to be used in drawing redemption funds out of the  
102 county depository; all such checks shall be numbered in numerical  
103 order, and it shall be the duty of the clerk to draw on such funds  
104 upon such checks as herein provided in payment of all amounts due  
105 the officers and purchasers out of said funds. He shall first pay  
106 the officers entitled to their costs, fees, and damages which are  
107 allowed to said officers by law; and he shall then pay to the  
108 purchasers at any such tax sale, the full amount due him as  
109 provided by law. It shall be the duty of the State Auditor of  
110 Public Accounts to audit such account of each clerk, as other  
111 public funds are audited; and he shall include in said audit a  
112 special report to the board of supervisors of his county setting  
113 out in detail the amounts collected, and the disposition of such  
114 funds, and the balance on hand, and attest to the correctness  
115 thereof.

116 If such clerk shall neglect, refuse or fail to deposit such  
117 funds received by him as herein provided, he shall be guilty of  
118 misfeasance in office, and in addition thereto shall be liable on  
119 his official bond to any person injured by his failure to deposit  
120 such funds in the county depository as herein provided.

121 **SECTION 4.** Section 27-45-7, Mississippi Code of 1972, is  
122 brought forward as follows:

123 27-45-7. If there exist upon a portion of a tract of land  
124 sold for taxes a lien, either of a deed of trust or mortgage of  
125 any kind, the mortgagee or holder of the notes secured by such  
126 deed of trust, or any person interested in such real estate may  
127 redeem that portion of the land so sold in solido upon which  
128 portion such mortgagee or owner of notes secured by deed of trust  
129 holds such lien in the following manner, to-wit:

130           Such mortgagee or owner of notes secured by a deed of trust  
131 or any person interested in such real estate may apply, in  
132 writing, to the chancery clerk of the county in which the land was  
133 sold, within the time provided by law, for redemption from the  
134 sale for taxes of such portion of the entire tract so sold in  
135 solido. Upon the application being filed with him, it shall be  
136 the duty of the chancery clerk to give ten (10) days' notice, in  
137 writing, of such application, by registered mail, to the last  
138 known post office address with return receipt requested, to the  
139 owner and to the purchaser at the tax sale, and to all persons  
140 holding mortgages or other liens of record on the land so sold in  
141 solido or any part thereof, which notice shall designate a time  
142 not less than ten (10) days from the mailing thereof when such  
143 clerk shall hear and perform the duties hereinafter provided for.  
144 The clerk shall enter on the record of such tax sale notations  
145 giving the date when such notices were mailed and the names and  
146 post office addresses of persons to whom mailed. On the date  
147 named for such hearing, the chancery clerk shall make such  
148 investigation as he may deem necessary to ascertain the relative  
149 value which that portion of the land on which the lien of such  
150 mortgage or deed of trust is held by the applicant, or by any  
151 other person, bears to the value of the entire land sold in solido  
152 for taxes, and the chancery clerk shall apportion the taxes due  
153 upon such portion at the ratio which said portion, upon which the  
154 lien exists, bears to the entire value of the property sold in  
155 solido for taxes. Upon such apportionment, the mortgagee or  
156 holder of the deed of trust, or any person interested in such real  
157 estate, shall be entitled to redeem that part of the land by  
158 payment of the sum apportioned thereon to the chancery clerk,  
159 regardless of the amount of the purchaser's bid at the tax sale,  
160 with its proportionate part, calculated as above provided, of all  
161 costs, damages and interest consequent upon the sale, and also all  
162 state and county taxes that have accrued upon that portion of said

163 land since the sale, apportioned by the chancery clerk in the  
164 manner hereinabove provided, together with interest thereon, at  
165 the rate of one per centum per month, or any fractional part  
166 thereof, from the date such taxes shall have accrued.

167         **SECTION 5.** Section 27-45-9, Mississippi Code of 1972, is  
168 brought forward as follows:

169         27-45-9. The redemption mentioned in Section 27-45-7 shall  
170 operate to fully and effectually redeem that portion of the land  
171 from the operation of the tax sale from which such redemption is  
172 made and shall leave in full force and effect the tax sale as to  
173 the remainder of the land so sold for taxes, which remainder, or  
174 any part thereof, may thereafter, in the time provided by law, be  
175 redeemed by the owner or any person interested in such real estate  
176 by the payment of the balance due, or such part thereof calculated  
177 as above provided. In the event that there shall exist several  
178 trust deeds or mortgages upon the property so sold in solido, and  
179 redemption under one or more of such trust deeds shall operate so  
180 as to effect redemption of a portion of the lands in any one of  
181 the others, because of overlapping descriptions and leave  
182 unredeemed the remainder of the land covered by such other deeds  
183 of trust or mortgages, the chancery clerk shall likewise have  
184 power to apportion in the same manner as aforesaid the amount  
185 required to redeem the remainder of the land included in such  
186 trust deed, omitting the portion of the land in such trust deed  
187 which had been previously redeemed, in the manner as above  
188 provided. Upon redemption by one other than the owner of the land  
189 redeemed, it shall be the duty of the redeemer to immediately  
190 notify, in writing, by registered mail with return receipt  
191 requested, any and all persons holding prior lien or liens of deed  
192 of trust or mortgage shown by the records of deeds of trust of the  
193 county where the land is situated, of the redemption of such part  
194 or all of said land, addressed to the lienor or lienors at his or  
195 their last known post office address, and to file a copy of such

196 notice or notices with the chancery clerk of said county who shall  
197 make entry of the receipt of the copy of such notice or notices on  
198 the record of tax sales of his office where such record of the  
199 redemption is entered. If the redeemer shall fail to give the  
200 notice or notices as above provided for, then such redeemer shall  
201 not be entitled by subrogation, or otherwise, to obtain or be  
202 granted any prior equity upon the land so redeemed over any prior  
203 lienor or lienors on the land so redeemed, whether such equity by  
204 subrogation or otherwise existed or not. Upon redemption of land  
205 or any part thereof as above provided, the chancery clerk shall  
206 execute a release thereof from the tax sale with the same effect,  
207 and shall note the redemption on his tax sales record, as is  
208 provided for redemptions in the usual manner.

209       **SECTION 6.** Section 27-45-27, Mississippi Code of 1972, is  
210 brought forward as follows:

211       27-45-27. (1) The amount paid by the purchaser of land at  
212 any tax sale thereof for taxes, either state and county, levee or  
213 municipal, and interest on the amount paid by the purchaser at the  
214 rate of one and one-half percent (1-1/2%) per month, or any  
215 fractional part thereof, and all expenses of the sale and  
216 registration, thereof shall be a lien on the land in favor of the  
217 purchaser and the holder of the legal title under him, by descent  
218 or purchase, if the taxes for which the land was sold were due,  
219 although the sale was illegal on some other ground. The purchaser  
220 and the holder of the legal title under him by descent or  
221 purchase, may enforce the lien by bill in chancery, and may obtain  
222 a decree for the sale of the land in default of payment of the  
223 amount within some short time to be fixed by the decree. In all  
224 suits for the possession of land, the defendant holding by descent  
225 or purchase, mediately or immediately, from the purchaser at tax  
226 sale of the land in controversy, may set off against the  
227 complainant the above-described claim, which shall have the same  
228 effect and be dealt with in all respects as provided for

229 improvements in a suit for the possession of land. But the term  
230 "suits for the possession of land," as herein used, does not  
231 include an action of unlawful entry and detainer.

232 (2) No county or municipal officer shall be liable to any  
233 purchaser at a tax sale or any recipient of a tax deed for any  
234 error or inadvertent omission by such official during any tax  
235 sale.

236 **SECTION 7.** This act shall take effect and be in force from  
237 and after July 1, 2007.