

By: Representative Smith

To: Ways and Means

HOUSE BILL NO. 391

1 AN ACT TO AUTHORIZE THE DEPARTMENT OF REVENUE TO CONSIDER AND
2 ENTER INTO AGREEMENTS WITH TAXPAYERS FOR THE SETTLEMENT OR
3 COMPROMISE OF TAX LIABILITIES; TO BRING FORWARD SECTIONS 31-19-27
4 AND 31-19-29, MISSISSIPPI CODE OF 1972, WHICH PROVIDE FOR THE
5 COMPROMISE OF DOUBTFUL CLAIMS, FOR PURPOSES OF AMENDMENT; AND FOR
6 RELATED PURPOSES.

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

8 **SECTION 1.** (1) (a) The Department of Revenue is authorized
9 to enter into an agreement with a taxpayer under which the
10 taxpayer's tax liabilities, or any part thereof, including any
11 applicable or assessed interest and penalty, are settled and
12 compromised, and in connection therewith to receive and consider
13 offers in compromise and settlement proposals, and to enter into
14 binding settlement agreements and closing agreements under which a
15 taxpayer's liabilities for taxes, interest and penalties are fully
16 and finally compromised and settled. Such authority shall include
17 compromise and settlements of proposed tax assessments, final tax
18 assessments, and tax liabilities reflected by filed returns,
19 judgments for taxes, and other proposed or final tax assessments
20 and liabilities, and applicable interest and penalties.



21 (b) The Department of Revenue shall develop procedures
22 for the receipt and consideration of offers in compromise and
23 settlement proposals. In considering and taking action upon such
24 offers and proposals, the Department of Revenue shall take into
25 account:

26 (i) Controversy or doubt as to the taxpayer's
27 liability for the tax that is the subject of the offer in
28 compromise or settlement proposal;

29 (ii) Controversy or doubt as to the collectability
30 of the tax that is the subject of the offer in compromise or
31 settlement proposal;

32 (iii) That payment of the tax liability, or the
33 interest or penalty thereon, will render the taxpayer insolvent or
34 incapable of continuing as a going business concern;

35 (iv) That the taxpayer has had an offer in
36 compromise accepted by the Internal Revenue Service or has
37 otherwise compromised or settled the federal tax liability
38 relating to the same or a similar type of federal tax for the
39 periods in question; and

40 (v) Hazards and costs of administrative
41 proceedings and litigation.

42 With respect to the compromise of interest or penalties, the
43 Department of Revenue shall take into account, in addition to the
44 factors listed in this paragraph (b), whether the failure to pay



45 the applicable tax resulted from a mistake of fact or law made in
46 good faith.

47 (2) A closing agreement or settlement agreement signed by
48 the Commissioner of Revenue, or his designee, and a taxpayer shall
49 be final and conclusive, and, except upon a showing of fraud or
50 misrepresentation of a material fact, no additional assessment or
51 collection may be made by the Department of Revenue and the
52 taxpayer shall not institute any judicial proceeding to recover
53 the taxpayer's liabilities as agreed to in the closing agreement
54 or settlement agreement.

55 (3) The Department of Revenue shall have all powers
56 necessary to implement and administer this section, and the
57 department shall promulgate rules and regulations, in accordance
58 with the Mississippi Administrative Procedures Law, necessary for
59 the implementation of this section.

60 **SECTION 2.** Section 31-19-27, Mississippi Code of 1972, is
61 brought forward as follows:

62 31-19-27. A doubtful claim of the state, or of the county,
63 city, town, village, or levee board is one for which judgment has
64 been rendered and for the collection of which the ordinary process
65 of law has been ineffectual; debts due by drainage districts or
66 other taxing districts or sinking funds to counties under the
67 Rehabilitation Act of 1928, being Chapter 88 of the Laws of 1928,
68 and Chapter 16 of the Acts of the Special Session of 1931; those
69 debts due counties by drainage districts, which the Reconstruction



70 Finance Corporation has heretofore refused to refinance; debts due
71 for sixteenth section township school fund loans made to churches,
72 where the board of supervisors finds that the value of the
73 security given therefor is insufficient or inadequate to pay or
74 satisfy the principal and interest of said loan, and when the
75 church repays the principal of said loan; and debts due by
76 counties and townships to drainage districts for drainage district
77 assessments or taxes levied and assessed upon sixteenth section
78 lands.

79 **SECTION 3.** Section 31-19-29, Mississippi Code of 1972, is
80 brought forward as follows:

81 31-19-29. The Governor, on the advice of the Attorney
82 General or Chairman of the State Tax Commission, may, upon
83 application of the defendant or debtor proposing a compromise,
84 settle and compromise any doubtful claim of the state, or of any
85 county, city, town, or village, or of any levee board against such
86 defendant or debtor, upon such terms as he may deem proper, the
87 board of supervisors in the case of a county, and the municipal
88 authorities in the case of a city, town or village, and the levee
89 board in the case of a claim of a levee board, concurring therein.
90 The Governor, upon application of a drainage district having
91 obligations outstanding to a county under the provisions of
92 Chapter 88, Laws of 1928, and Chapter 16, Laws of the
93 Extraordinary Session of 1931, or obligations which the
94 Reconstruction Finance Corporation has heretofore refused to



95 refinance, may settle and compromise any claim, debt or obligation
96 that said drainage district may owe any county in the State of
97 Mississippi for money loaned said district under the provisions of
98 said Chapter 88, Laws of 1928, or any other claim, debt or
99 obligation that said drainage district may owe the county which
100 the Reconstruction Finance Corporation has heretofore refused to
101 finance, if the board of supervisors of said county concurs in the
102 application of the drainage district. The Governor, upon
103 application by the board of supervisors for any taxing districts
104 of said county or sinking funds of said county under the control
105 and supervision of said board of supervisors having obligations
106 outstanding and due to said county under the provisions of Chapter
107 88, Laws of 1928, and Chapter 16, Laws of the Extraordinary
108 Session of 1931, may settle and compromise any claim, debt, or
109 obligation that said taxing districts or sinking funds may owe
110 said county for money loaned said taxing districts or sinking
111 funds under the provisions of said Chapter 88, Laws of 1928; and
112 provided that the Governor, on the advice of the Attorney General,
113 and upon application of a church owing a sixteenth section
114 township school fund loan, may settle and compromise such debt or
115 obligation if the board of supervisors of the said county concurs
116 in the application of the said church. The Governor may, on the
117 advice of the Attorney General, in like manner compromise and
118 settle a claim of a drainage district for unpaid assessments or
119 taxes upon sixteenth section lands upon application of the board



120 of supervisors wherein such sixteenth section is situated, if the
121 commissioners of the drainage district concur therein.

122 **SECTION 4.** This act shall take effect and be in force from
123 and after July 1, 2016.

