

By: Representatives Barton, Dixon

To: Ways and Means

HOUSE BILL NO. 1307
(As Passed the House)

1 AN ACT TO AMEND SECTION 27-43-3, MISSISSIPPI CODE OF 1972, TO
2 PROVIDE THAT IF A CHANCERY CLERK FAILS TO PROVIDE THE REQUIRED
3 NOTICE TO AN OWNER OF PROPERTY SOLD DUE TO NONPAYMENT OF AD
4 VALOREM TAXES BEFORE THE EXPIRATION OF THE PERIOD FOR REDEMPTION
5 OF THE PROPERTY, THEN THE SALE IS VOIDABLE UPON SUIT BY THE RECORD
6 OWNER AT THE TIME OF THE SALE OR THE HEIRS, SUCCESSORS OR ASSIGNS
7 OF THE SAID RECORD OWNER; TO BRING FORWARD SECTION 27-43-4,
8 MISSISSIPPI CODE OF 1972, WHICH PROVIDE FOR THE DUTIES OF A
9 MUNICIPAL CLERK TO PROVIDE NOTICE TO OWNERS AND LIENORS WHEN A
10 MUNICIPALITY SALES PROPERTY DUE TO NONPAYMENT OF MUNICIPAL TAXES
11 FOR AD VALOREM OR SPECIAL IMPROVEMENTS, FOR THE PURPOSES OF
12 POSSIBLE AMENDMENT; TO PROVIDE THAT COUNTY BOARDS OF SUPERVISORS
13 AND MUNICIPAL GOVERNING AUTHORITIES MAY OFFER TO MEDICARE ELIGIBLE
14 COUNTY AND MUNICIPAL EMPLOYEES SUPPLEMENTAL COMPENSATION,
15 INSURANCE OR BENEFITS IF THE EMPLOYEES CHOOSE TO SECURE MEDICARE
16 COVERAGE IN LIEU OF PARTICIPATING IN ANY COUNTY OR MUNICIPAL
17 MEDICAL OR HEALTH INSURANCE PROGRAM, AS THE CASE MAY BE; TO AMEND
18 SECTION 27-35-143, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT IF A
19 TAX ASSESSOR HAS KNOWLEDGE OF CERTAIN CIRCUMSTANCES OR OCCURRENCES
20 THAT MAY AFFECT AN ASSESSMENT OF PROPERTY FOR AD VALOREM TAX
21 PURPOSES, THE ASSESSOR SHALL MAKE AN APPLICATION ON BEHALF OF THE
22 INTERESTED PARTY WITH THE BOARD OF SUPERVISORS TO CHANGE, CANCEL
23 OR DECREASE THE ASSESSMENT; TO BRING FORWARD SECTIONS 27-35-135,
24 27-35-145, 27-35-149 AND 27-37-27, MISSISSIPPI CODE OF 1972, WHICH
25 RELATE TO THE CHANGE OF ASSESSMENTS OF PROPERTY FOR AD VALOREM TAX
26 PURPOSES, FOR THE PURPOSE OF POSSIBLE AMENDMENT; AND FOR RELATED
27 PURPOSES.

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

29 **SECTION 1.** Section 27-43-3, Mississippi Code of 1972, is
30 amended as follows:



31 27-43-3. The clerk shall issue the notice to the sheriff of
32 the county of the reputed owner's residence, if he is a resident
33 of the State of Mississippi, and the sheriff shall be required to
34 serve notice as follows:

35 (a) Upon the reputed owner personally, if he can be
36 found in the county after diligent search and inquiry, by handing
37 him a true copy of the notice;

38 (b) If the reputed owner cannot be found in the county
39 after diligent search and inquiry, then by leaving a true copy of
40 the notice at his usual place of abode with the spouse of the
41 reputed owner or some other person who lives at his usual place of
42 abode above the age of sixteen (16) years, and willing to receive
43 the copy of the notice; or

44 (c) If the reputed owner cannot be found after diligent
45 search and inquiry, and if no person above the age of sixteen (16)
46 years who lives at his usual place of abode can be found at his
47 usual place of abode who is willing to receive the copy of the
48 notice, then by posting a true copy of the notice on a door of the
49 reputed owner's usual place of abode.

50 The sheriff shall make his return to the chancery clerk
51 issuing the notice. The clerk shall also mail a copy of the
52 notice to the reputed owner at his usual street address, if it can
53 be ascertained after diligent search and inquiry, or to his
54 post-office address if only that can be ascertained, and he shall
55 note such action on the tax sales record. The clerk shall also be



56 required to publish the name and address of the reputed owner of
57 the property and the legal description of the property in a public
58 newspaper of the county in which the land is located, or if no
59 newspaper is published as such, then in a newspaper having a
60 general circulation in the county. The publication shall be made
61 at least forty-five (45) days prior to the expiration of the
62 redemption period.

63 If the reputed owner is a nonresident of the State of
64 Mississippi, then the clerk shall mail a copy of the notice to the
65 reputed owner in the same manner as set out in this section for
66 notice to a resident of the State of Mississippi, except that
67 notice served by the sheriff shall not be required.

68 Notice by mail shall be by registered or certified mail. In
69 the event the notice by mail is returned undelivered and the
70 notice as required in this section to be served by the sheriff is
71 returned not found, then the clerk shall make further search and
72 inquiry to ascertain the reputed owner's street and post-office
73 address. If the reputed owner's street or post-office address is
74 ascertained after the additional search and inquiry, the clerk
75 shall again issue notice as set out in this section. If notice is
76 again issued and it is again returned not found and if notice by
77 mail is again returned undelivered, then the clerk shall file an
78 affidavit to that effect and shall specify in the affidavit the
79 acts of search and inquiry made by him in an effort to ascertain
80 the reputed owner's street and post-office address and the



81 affidavit shall be retained as a permanent record in the office of
82 the clerk and that action shall be noted on the tax sales record.
83 If the clerk is still unable to ascertain the reputed owner's
84 street or post-office address after making search and inquiry for
85 the second time, then it shall not be necessary to issue any
86 additional notice but the clerk shall file an affidavit specifying
87 the acts of search and inquiry made by him in an effort to
88 ascertain the reputed owner's street and post-office address and
89 the affidavit shall be retained as a permanent record in the
90 office of the clerk and that action shall be noted on the tax sale
91 record.

92 For examining the records to ascertain the record owner of
93 the property, the clerk shall be allowed a fee of Fifty Dollars
94 (\$50.00); for issuing the notice the clerk shall be allowed a fee
95 of Two Dollars (\$2.00) and, for mailing the notice and noting that
96 action on the tax sales record, a fee of One Dollar (\$1.00); and
97 for serving the notice, the sheriff shall be allowed a fee of
98 Thirty-five Dollars (\$35.00). For issuing a second notice, the
99 clerk shall be allowed a fee of Five Dollars (\$5.00) and, for
100 mailing the notice and noting that action on the tax sales record,
101 a fee of Two Dollars and Fifty Cents (\$2.50), and for serving the
102 second notice, the sheriff shall be allowed a fee of Thirty-five
103 Dollars (\$35.00). The clerk shall also be allowed the actual cost
104 of publication. The fees and cost shall be taxed against the
105 owner of the land if the land is redeemed, and if not redeemed,



106 then the fees are to be taxed as part of the cost against the
107 purchaser. The failure of the landowner to actually receive the
108 notice herein required shall not render the title void, provided
109 the clerk and sheriff have complied with the duties prescribed for
110 them in this section.

111 Should the clerk inadvertently fail to send notice as
112 prescribed in this section, then the sale shall be * * * voidable
113 upon suit by the record owner at the time of the sale or the
114 heirs, successor or assigns of the said record owner and the clerk
115 shall not be liable to the purchaser or owner upon refund of all
116 purchase money paid. In addition the land owner may redeem any
117 property up to the time the tax deed is issued.

118 **SECTION 2.** Section 27-43-4, Mississippi Code of 1972, is
119 brought forward as follows:

120 27-43-4. With respect to lands sold for the nonpayment of
121 municipal taxes, both for ad valorem and for special improvements,
122 the municipal clerk shall issue the same type notices and perform
123 all other requirements as set forth in Sections 27-43-1 through
124 27-43-11, inclusive, and for so doing, the municipality shall be
125 allowed the same fees as set forth in said sections. However, all
126 certificates or affidavits of the municipal clerk shall be filed
127 with the chancery clerk of the county in which the municipality is
128 located for which the chancery clerk shall be allowed a filing fee
129 of One Dollar (\$1.00) per affidavit or certificate.



130 SECTION 3. (1) Any board of supervisors or governing
131 authority of any municipality may offer to any Medicare eligible
132 employee of the county or municipality supplemental compensation,
133 insurance and/or benefits if the employee chooses to secure
134 Medicare coverage in lieu of participating in any county or
135 municipal medical or health insurance program, as the case may be.

136 (2) Before the supplemental compensation, insurance and/or
137 benefits may be provided to the Medicare eligible employee as
138 specified under this section, the employee must provide verifiable
139 proof that he or she has secured coverage under Medicare.

140 SECTION 4. Section 27-35-143, Mississippi Code of 1972, is
141 amended as follows:

142 27-35-143. (1) The board of supervisors of each county
143 shall have power, upon application of the party interested, or by
144 the assessor on behalf of such party, or otherwise as prescribed
145 in Sections 27-35-145 through 27-35-149, to change, cancel or
146 decrease an assessment in the manner herein provided at any time
147 after the assessment roll containing such assessment has been
148 finally approved by the * * * Department of Revenue, and, except
149 as otherwise provided in subsection (2) of this section, prior to
150 the last Monday in August next, under the following circumstances
151 and no other:

152 * * * (a) When the same property has been assessed more
153 than once to one or more persons.



154 * * * (b) When a clerical error has been made in
155 transcribing the assessment from the tax list to the assessment
156 roll, or from the assessment roll to the copies, or in amending
157 the original assessment roll, in making the equalization of
158 assessments, or in carrying out the instructions of the * * *
159 Department of Revenue.

160 * * * (c) When an error in addition or multiplication
161 has been made in the compilation of the tax list, roll or copy of
162 the roll.

163 * * * (d) When there is an assessment of property which
164 never existed, or was not owned by or in the possession of the
165 party to whom assessed, on the next preceding tax lien date.

166 * * * (e) When the assessment is in the name of another
167 than the owner of the property on the next preceding tax lien
168 date.

169 * * * (f) When the assessment is so indefinite as to
170 give a vague or imperfect description of the property assessed.

171 * * * (g) When the property assessed is nontaxable, or
172 was not subject to taxation on the next preceding tax lien date.

173 * * * (h) When the property is not liable to a special
174 district tax levy for which it has been assessed.

175 * * * (i) When the property, after the next preceding
176 tax lien date, but before the payment of taxes due thereon, has
177 ceased to exist, on account of death or destruction by fire,
178 explosion, storm, flood, earthquake, lightning, or other



179 inevitable accident or act of Providence; or has depreciated in
180 value on account of any such accident or occurrence as the
181 foregoing.

182 Provided, however, that where property has been insured the
183 amount collected as insurance by reason of such loss shall be
184 taken into account by the board in reducing the assessment, or
185 refunding any tax payment thereon.

186 * * * (j) When the assessment does not show the correct
187 number of acres, actually in the property described, or the
188 correct quantity of any property.

189 * * * (k) When lands have been assessed and incorrectly
190 classified; or when buildings and improvements have been assessed
191 which were not on the land, at the preceding tax lien date; or
192 where the buildings and improvements, at the preceding tax lien
193 date, were exempt from assessment and taxation.

194 * * * (l) When the property has been assessed for more
195 than its actual value; but in such cases the board shall require
196 proof, under oath, of such excessive assessment by two (2) or more
197 competent witnesses who know of their own personal knowledge that
198 the property is assessed for a higher sum than its true value.

199 * * * (m) When the property has been assessed as
200 subject to state taxes and is exempt; or when the property has
201 been assessed as subject to county and district taxes and is
202 exempt from such taxes.



203 * * * (n) When buildings and improvements have been
204 assessed with the land, but are owned by someone other than the
205 owner of the land.

206 (2) The assessor shall make an application on behalf of the
207 party interested if the assessor has knowledge of any circumstance
208 or occurrence described in subsection (1)(i) of this section
209 regardless of whether the party interested has made such an
210 application. If the assessor fails to make such application, the
211 party interested may make an application with the board of
212 supervisor not later than eighteen (18) months after the date of
213 the accident or occurrence described in subsection (1)(i) of this
214 section, and the board of supervisors may change, cancel or
215 decrease the assessment.

216 **SECTION 5.** Section 27-35-135, Mississippi Code of 1972, is
217 brought forward as follows:

218 27-35-135. When the land roll is ordered by the board to be
219 declared in force for the year following the year in which it was
220 made, the assessor shall assemble, for presentation to the board,
221 all necessary information which is obtainable with respect to the
222 taxable real property in the county, and shall present to the
223 board at its July meeting his recommendation of the changes which
224 include the addition of buildings not on the roll, changes in
225 ownership, subdivisions of tracts of land, and destruction of
226 buildings, and other information which is pertinent to the
227 circumstances enumerated in Sections 27-35-143 and 27-35-147, or



228 as may be requested by the board, to enable it to make such
229 changes as will cause the taxes to be charged to the person or
230 property liable therefor, and to fix the assessments of property
231 according to the value thereof, to the end that all property shall
232 be assessed and taxed uniformly and equally. The board shall
233 proceed to consider the land assessment roll along with the
234 personal property assessment roll as is required by Sections
235 27-35-83 and 27-35-87, Mississippi Code of 1972, in the same
236 manner as is done in the year in which the land roll is made. The
237 board shall make a record of its changes, and if expedient the
238 board may prepare, or have prepared, new pages to replace any page
239 or pages in the roll where changes are so numerous as to cause
240 confusion and uncertainty in the description of any property and
241 of any individual assessment. The pages which are replaced shall
242 be marked void by the clerk, who shall place the new pages in the
243 roll at the place in the roll immediately following the pages
244 marked void, and shall certify copies of the new pages, one (1) to
245 the tax collector, and one (1) to the Tax Commission. The tax
246 collector and the Tax Commission shall place the pages received in
247 their respective copies of the roll.

248 The board shall publish a notice to the taxpayers as required
249 by Section 27-35-83 that the roll is open for inspection and shall
250 meet and hear objections as provided by Sections 27-35-89 and
251 27-35-93. When all objections have been heard, the board shall
252 approve finally, by order, the roll as so corrected and revised,



253 and the clerk of the board shall prepare a new recapitulation and
254 a new certificate for the corrected roll and deliver one (1) copy
255 to the tax collector and one (1) copy to the State Tax Commission.
256 The roll so approved shall be the legal roll, and the values thus
257 fixed shall be the legal value of the property described for the
258 payment of taxes, and it shall be the duty of each and every
259 taxpayer to pay his taxes thereon according to such value.

260 **SECTION 6.** Section 27-35-145, Mississippi Code of 1972, is
261 brought forward as follows:

262 27-35-145. Any person desiring a change in assessment as
263 provided in Section 27-35-143 shall make, in writing, an
264 application in duplicate to the board of supervisors of the county
265 where such assessment is made (or the tax assessor of the county
266 may make such applications for him) on the forms prescribed,
267 setting forth the grounds for the reduction, change, or
268 cancellation claimed. At any meeting, either regular, special, or
269 adjourned, the board of supervisors may hear and determine the
270 matter and shall require such evidence as, in its opinion, is
271 necessary to substantiate the application. If the board approves
272 the application it shall adopt an order setting forth its
273 conclusions, which order shall be dealt with as hereinafter
274 provided. The State Tax Commission shall prescribe and furnish
275 the forms necessary for complying with the provisions of this
276 section.



277 SECTION 7. Section 27-35-149, Mississippi Code of 1972, is
278 brought forward as follows:

279 27-35-149. It shall be the duty of the board of supervisors
280 in carrying out the provisions of Sections 27-35-143 through
281 27-35-147 to make such changes in assessments as will cause the
282 taxes to be charged to the person or property liable therefor, and
283 to fix the assessments of property according to the true value
284 thereof, to the end that all property shall be assessed and taxed
285 equally and uniformly. In all cases, the board shall adopt an
286 order and enter the same on its minutes, and shall show in its
287 order the page and line of the assessment roll where such change
288 or correction is made.

289 Upon receipt of the order (and application, if one be
290 required), the clerk of the board of supervisors shall transmit a
291 certified copy of the order to the tax collector of his county and
292 shall file the application as a record in his office. No
293 assessment shall be increased or decreased and no credit to or
294 charge against the tax collector of any county on account of such
295 increase or decrease shall be entered by the Auditor of Public
296 Accounts or by the county auditor except as shown by an order
297 adopted by the board of supervisors as provided herein. All
298 changes in assessment made under the provisions hereof shall be
299 entered on the proper line and page of the assessment roll in
300 force, and the clerk and tax collector shall keep the proper
301 record of all such changes, increases or decreases. Nothing in



302 this and Sections 27-35-143 through 27-35-147 shall be construed
303 to affect or modify any law with reference to the assessing of
304 property which has escaped taxation in former years.

305 **SECTION 8.** Section 27-37-27, Mississippi Code of 1972, is
306 brought forward as follows:

307 27-37-27. When the assessor and chancery clerk shall receive
308 the roll or schedule of land from the state tax commission, as
309 provided by Section 27-37-21 of this article, in the years in
310 which land is not assessed, or after the completion of the roll in
311 land assessment years, they shall present the same to the board of
312 supervisors, and the board shall carefully compare it with the
313 land assessment roll of the county. It shall be the duty of the
314 board of supervisors of each county in which any of such lands are
315 located, to require the assessor to prepare proper petitions for
316 the cancellation or change of assessments as provided by Section
317 27-35-143, Mississippi Code of 1972, and the board shall proceed
318 to adopt proper orders as required by Section 27-35-149,
319 Mississippi Code of 1972, so as to cancel all assessments against
320 land owned by the United States for the purposes set forth in this
321 article, and to assess to the proper owners any lands which are
322 taxable to individual owners. All such petitions prepared by the
323 assessor shall be acted upon by the board, proper orders adopted,
324 as herein provided, and the same submitted to the tax commission
325 for its approval or disapproval, to the end that all lands which
326 are exempt from assessment shall be so shown on the roll, and all



327 parties properly assessed with the lands owned, and the tax
328 collector credited with any assessments with which he may be
329 charged, and which are cancelled or reduced.

330 **SECTION 9.** A failure to give the required notice to such
331 lienors shall render the tax title voidable as to such lienors,
332 and as to them only, upon suit by the lienor or the heirs,
333 successors or assigns of the lienor and such purchaser shall be
334 entitled to a refund of all such taxes paid the state, county or
335 other taxing district after filing his claim therefor as provided
336 by law. (Section 27-43-11, Mississippi Code of 1972)

337 **SECTION 10.** No purchaser of land at any tax sale, nor holder
338 of the legal title under him by descent or purchase, shall have
339 any right of action to challenge the validity of the tax sale.
340 (Section 27-45-27, Mississippi Code of 1972)

341 **SECTION 11.** This act shall take effect and be in force from
342 and after July 1, 2019.

