

By: Representative Tullos

To: Ways and Means

HOUSE BILL NO. 1435

1 AN ACT TO AMEND SECTION 27-43-3, MISSISSIPPI CODE OF 1972, TO
2 PROVIDE THAT CONSTABLES MAY SERVE NOTICES TO OWNERS OF LAND THAT
3 HAS BEEN SOLD FOR NONPAYMENT OF AD VALOREM TAXES; TO INCREASE THE
4 FEE THAT MAY BE PAID TO SHERIFFS AND CONSTABLES FOR SERVING SUCH
5 NOTICES; TO BRING FORWARD SECTION 27-45-5, MISSISSIPPI CODE OF
6 1972, WHICH PROVIDES THE DUTIES OF THE CHANCERY CLERK REGARDING
7 THE DISPOSITION OF FUNDS PAID FOR THE REDEMPTION OF LAND SOLD FOR
8 THE NONPAYMENT OF AD VALOREM TAXES, FOR THE PURPOSES OF POSSIBLE
9 AMENDMENT; AND FOR RELATED PURPOSES.

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

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

13 27-43-3. The clerk shall issue the notice to the sheriff or
14 a constable of the county of the reputed owner's residence, if he
15 is a resident of the State of Mississippi, and the sheriff or
16 constable shall be required to serve notice as follows:

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

20 (b) If the reputed owner cannot be found in the county
21 after diligent search and inquiry, then by leaving a true copy of



22 the notice at his usual place of abode with the spouse of the
23 reputed owner or some other person who lives at his usual place of
24 abode above the age of sixteen (16) years, and willing to receive
25 the copy of the notice; or

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

32 The sheriff or constable shall make his return to the
33 chancery clerk issuing the notice. The clerk shall also mail a
34 copy of the notice to the reputed owner at his usual street
35 address, if it can be ascertained after diligent search and
36 inquiry, or to his post-office address if only that can be
37 ascertained, and he shall note such action on the tax sales
38 record. The clerk shall also be required to publish the name and
39 address of the reputed owner of the property and the legal
40 description of the property in a public newspaper of the county in
41 which the land is located, or if no newspaper is published as
42 such, then in a newspaper having a general circulation in the
43 county. The publication shall be made at least forty-five (45)
44 days prior to the expiration of the redemption period.

45 If the reputed owner is a nonresident of the State of
46 Mississippi, then the clerk shall mail a copy of the notice to the



reputed owner in the same manner as set out in this section for notice to a resident of the State of Mississippi, except that notice served by the sheriff or constable shall not be required.

Notice by mail shall be by registered or certified mail. In the event the notice by mail is returned undelivered and the notice as required in this section to be served by the sheriff or constable is returned not found, then the clerk shall make further search and inquiry to ascertain the reputed owner's street and post-office address. If the reputed owner's street or post-office address is ascertained after the additional search and inquiry, the clerk shall again issue notice as set out in this section. If notice is again issued and it is again returned not found and if notice by mail is again returned undelivered, then the clerk shall file an affidavit to that effect and shall specify in the affidavit the acts of search and inquiry made by him in an effort to ascertain the reputed owner's street and post-office address and the affidavit shall be retained as a permanent record in the office of the clerk and that action shall be noted on the tax sales record. If the clerk is still unable to ascertain the reputed owner's street or post-office address after making search and inquiry for the second time, then it shall not be necessary to issue any additional notice but the clerk shall file an affidavit specifying the acts of search and inquiry made by him in an effort to ascertain the reputed owner's street and post-office address and the affidavit shall be retained as a permanent record in the



office of the clerk and that action shall be noted on the tax sale record.

For examining the records to ascertain the record owner of the property, the clerk shall be allowed a fee of Fifty Dollars (\$50.00); for issuing the notice the clerk shall be allowed a fee of Two Dollars (\$2.00) and, for mailing the notice and noting that action on the tax sales record, a fee of One Dollar (\$1.00); and for serving the notice, the sheriff or constable shall be allowed a fee of * * * Forty-five Dollars (\$45.00). For issuing a second notice, the clerk shall be allowed a fee of Five Dollars (\$5.00) and, for mailing the notice and noting that action on the tax sales record, a fee of Two Dollars and Fifty Cents (\$2.50), and for serving the second notice, the sheriff or constable shall be allowed a fee of * * * Forty-five Dollars (\$45.00). The clerk shall also be allowed the actual cost of publication. The fees and cost shall be taxed against the owner of the land if the land is redeemed, and if not redeemed, then the fees are to be taxed as part of the cost against the purchaser. The failure of the landowner to actually receive the notice herein required shall not render the title void, provided the clerk and sheriff or constable have complied with the duties prescribed for them in this section.

Should the clerk inadvertently fail to send notice as prescribed in this section, then the sale shall be void and the clerk shall not be liable to the purchaser or owner upon refund of all purchase money paid.



97 **SECTION 2.** Section 27-45-5, Mississippi Code of 1972, is
98 brought forward as follows:

99 27-45-5. It shall be the duty of the chancery clerk of each
100 county in the state to immediately deposit in the county
101 depository of his county all sums of money paid to him by any
102 person for the redemption of land sold for taxes in his county;
103 all such funds are hereby declared to be public funds, and shall
104 be secured by the county depository, as other public funds are
105 required to be secured by law. The board of supervisors of each
106 county shall provide the clerk with printed checks in the form of
107 vouchers, with proper blanks, bound in book form with a sufficient
108 blank margin to be used in drawing redemption funds out of the
109 county depository; all such checks shall be numbered in numerical
110 order, and it shall be the duty of the clerk to draw on such funds
111 upon such checks as herein provided in payment of all amounts due
112 the officers and purchasers out of said funds. He shall first pay
113 the officers entitled to their costs, fees, and damages which are
114 allowed to said officers by law; and he shall then pay to the
115 purchasers at any such tax sale, the full amount due him as
116 provided by law. It shall be the duty of the state auditor of
117 public accounts to audit such account of each clerk, as other
118 public funds are audited; and he shall include in said audit a
119 special report to the board of supervisors of his county setting
120 out in detail the amounts collected, and the disposition of such



121 funds, and the balance on hand, and attest to the correctness
122 thereof.

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

128 **SECTION 3.** This act shall take effect and be in force from
129 and after July 1, 2020.

