

By: Senator(s) McCaughn, Suber, Boyd

To: County Affairs;
Judiciary, Division A

SENATE BILL NO. 2392

1 AN ACT TO AMEND SECTION 19-5-22, MISSISSIPPI CODE OF 1972, TO
 2 REQUIRE A COUNTY BOARD OF SUPERVISORS TO NOTIFY THE COUNTY TAX
 3 COLLECTOR WHEN UNPAID FEES ASSESSED UNDER SECTION 19-5-21 ARE PAST
 4 DUE; TO REQUIRE THE TAX COLLECTOR TO INDEX THE DELINQUENCY NOTICE
 5 RECEIVED FROM THE BOARD OF SUPERVISORS; TO REQUIRE THE TAX
 6 COLLECTOR TO COMMENCE A TAX SALE THREE YEARS AFTER RECEIVING THE
 7 DELINQUENCY NOTICE IF THE AMOUNT OF THE DELINQUENCY EXCEEDS A
 8 CERTAIN AMOUNT; TO PROVIDE THAT A PERSON WHO DID NOT GENERATE THE
 9 GARBAGE OR OWN THE PROPERTY FURNISHED THE SERVICE AT THE TIME THAT
 10 THE GARBAGE WAS GENERATED SHALL NOT BE CONSIDERED DELINQUENT FOR
 11 ANY FEES UNDER THIS SECTION; TO PROVIDE THAT CERTAIN FEES ASSESSED
 12 UNDER THIS SECTION SHALL NOT BE CONSIDERED LIENS; TO PROVIDE THAT
 13 FEES THAT ARE NOT LIENS UPON THE REAL PROPERTY OFFERED GARBAGE OR
 14 RUBBISH COLLECTION OR DISPOSAL SERVICE UNDER THIS SUBSECTION SHALL
 15 REMAIN RECOVERABLE AGAINST THE GENERATOR OF THE GARBAGE AND THE
 16 OWNER OF THE PROPERTY; TO AMEND SECTION 27-41-59, MISSISSIPPI CODE
 17 OF 1972, TO CONFORM; AND FOR RELATED PURPOSES.

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

19 **SECTION 1.** Section 19-5-22, Mississippi Code of 1972, is
 20 amended as follows:

21 19-5-22. (1) Fees for garbage or rubbish collection or
 22 disposal shall be assessed jointly and severally against the
 23 generator of the garbage or rubbish and against the owner of the
 24 property furnished the service. In addition to such fees, an
 25 additional amount not to exceed up to One Dollar (\$1.00) or ten



26 percent (10%) per month, whichever is greater, on the current
27 monthly bill may be assessed on the balance of any delinquent
28 monthly fees. Any person who pays, as a part of a rental or lease
29 agreement, an amount for garbage or rubbish collection or disposal
30 services shall not be held liable upon the failure of the property
31 owner to pay those fees.

32 (2) (a) Every generator assessed the fees authorized by
33 Section 19-5-21 and the owner of the property occupied by that
34 generator shall be jointly and severally liable for the fees.

35 (b) Subject to subsection (6) of this section, the fees
36 shall be a lien upon the real property offered garbage or rubbish
37 collection or disposal service.

38 (c) (i) The board of supervisors may assess the fees
39 annually. If the fees are assessed annually, the fees for each
40 calendar year shall be a lien upon the real property beginning on
41 January 1 of the next immediately succeeding calendar year subject
42 to subsection (6) of this section. The person or entity owing the
43 fees, upon signing a form provided by the board of supervisors,
44 may pay the fees in equal installments.

45 (ii) If fees are assessed on a basis other than
46 annually, the fees shall become a lien upon the real property
47 offered the service on the date that the fees become due and
48 payable subject to subsection 6 of this section.

49 * * *



50 (d) The county shall mail a notice of the lien,
51 including the amount of unpaid fees and a description of the
52 property subject to the lien, to the owner of the property.

53 (3) Liens created under subsection (2) may be discharged by
54 filing with the * * * chancery clerk a receipt or acknowledgement,
55 signed by the designated county official or billing and collection
56 entity, that the lien has been paid or discharged.

57 (4) (a) The board of supervisors * * * shall notify the tax
58 collector of any unpaid fees assessed under Section 19-5-21 within
59 ninety (90) days after the fees are due. Before notifying the tax
60 collector, the board of supervisors shall provide notice of the
61 delinquency to the person who owes the delinquent fees and shall
62 afford an opportunity for a hearing, that complies with the due
63 process protections the board deems necessary, consistent with the
64 Constitutions of the United States and the State of Mississippi.
65 The board of supervisors shall establish procedures for the manner
66 in which notice shall be given and the contents of the notice;
67 however, each notice shall include the amount of fees and shall
68 prescribe the procedure required for payment of the delinquent
69 fees. The board of supervisors may designate a disinterested
70 individual to serve as hearing officer. The board of supervisors
71 shall continue to update the delinquency notice to the tax
72 collector at least annually.

73 (b) Upon receipt of a delinquency notice or updated
74 delinquency notice, the tax collector shall:



75 (i) Index the delinquency notice under Section
76 27-41-59;

77 (ii) Commence a tax sale three (3) years after
78 receipt of the original delinquency notice if the combined amount
79 of the delinquency on the land exceeds Five Hundred Dollars
80 (\$500.00) subject to the requirements of Section 27-41-59.

81 (iii) Not issue or renew a motor vehicle road and
82 bridge privilege license for any motor vehicle owned by a person
83 who is delinquent in the payment of fees unless those fees in
84 addition to any other taxes or fees assessed against the motor
85 vehicle are paid. A person who did not generate the garbage or
86 own the property furnished the service at the time that the
87 garbage was generated shall not be considered delinquent for any
88 fees under this section. Payment of all delinquent garbage fees
89 shall be deemed a condition of receiving a motor vehicle road and
90 privilege license tag.

91 (c) The tax collector may forward the motor vehicle
92 road and privilege license tag renewal notices to the designated
93 county official or entity that is responsible for the billing and
94 collection of the county garbage fees. The designated county
95 official or the billing and collection entity shall identify those
96 license tags that shall not be issued due to delinquent garbage
97 fees. The designated county official or the billing and
98 collection entity shall stamp a message on the license tag renewal
99 notices that the tag will not be renewed until delinquent garbage



100 fees are paid. The designated county official or the billing and
101 collection entity shall return the license tag notices to the tax
102 collector before the first of the month.

103 (d) Any appeal from a decision of the board of
104 supervisors under this section regarding payment of delinquent
105 garbage fees may be taken as provided in Section 11-51-75.

106 (5) The board of supervisors may levy the garbage fees as a
107 special assessment against the property in lieu of the lien
108 authorized in this section. The board of supervisors shall
109 certify to the tax collector the assessment due from the owner of
110 the property. The tax collector shall enter the assessment upon
111 the annual tax roll of the county and shall collect the assessment
112 at the same time he collects the county ad valorem taxes on the
113 property.

114 * * *

115 (6) (a) No fees assessed under this section shall be
116 considered liens upon the real property offered garbage or rubbish
117 collection or disposal service unless the assessed fee:

118 (i) Was imposed after January 1, 2018; and

119 (ii) Complies with the requirements of this

120 section by September 1, 2024.

121 (b) Fees that are not liens upon the real property
122 offered garbage or rubbish collection or disposal service under
123 this subsection shall remain recoverable against the generator of
124 the garbage assessed the fees authorized by Section 19-5-21 and



125 the owner of the property occupied by that generator as provided
126 otherwise by this section.

127 **SECTION 2.** Section 27-41-59, Mississippi Code of 1972, is
128 amended as follows:

129 27-41-59. (1) Except as otherwise provided in Section
130 27-41-2, on the first Monday of April, if the tax collector has
131 exercised his option to hold a tax sale on that day, and on the
132 last Monday of August, as the case may be, if the taxes remain
133 unpaid, the tax collector shall proceed to sell, for the payment
134 of taxes then remaining due and unpaid, together with all fees,
135 penalties and damages provided by law, the land or so much and
136 such parts of the land of each delinquent taxpayer to the highest
137 and best bidder for cash as will pay the amount of taxes due by
138 him and all costs and charges. He shall first offer one hundred
139 sixty (160) acres or a smaller separately described subdivision,
140 if the land is less than one hundred sixty (160) acres. If the
141 first parcel so offered does not produce the amount due, then he
142 shall offer as an entirety all the land constituting one (1)
143 tract. Each separate assessment as it appears and is described on
144 the assessment roll shall constitute one (1) tract for the purpose
145 of sale for taxes, notwithstanding the fact that the person who is
146 the owner thereof, or to whom it is assessed, is the owner of or
147 is assessed with other lands, the whole of which constitutes one
148 (1) entire tract but appears on the assessment roll in separate
149 subdivisions. Upon offering the land of any delinquent taxpayer



150 constituting one (1) tract, if no person will bid for it, the
151 whole amount of taxes and all costs incident to the sale, the tax
152 collector shall strike it off to the state. Except as otherwise
153 provided in subsection (2) of this section, the sale shall be
154 continued from day to day within the hours from 8:30 o'clock in
155 the forenoon and 4:30 o'clock in the afternoon until completed.

156 (2) The tax collector is authorized to enter into an
157 agreement with an online provider to conduct tax sales using
158 online bidding and sale. Such agreement must be ratified by the
159 county board of supervisors in order to be binding. Upon
160 ratification of the agreement by the county board of supervisors,
161 the tax collector may conduct the tax sale online as provided in
162 this section. The time during which online bids can be made at a
163 tax sale conducted under this subsection shall be established in
164 the agreement and, if the tax sale is to be conducted using the
165 procedure authorized by this subsection, the time during which
166 online bids can be made at the sale shall be included in the
167 advertisement required by Section 27-41-55. In counties having
168 two (2) court districts, the online tax sale shall separate the
169 court districts into two (2) separate portals to distinguish each
170 district.

171 (3) A failure to advertise, an error in the advertisement,
172 or an error in conducting the sale shall not invalidate a sale at
173 the proper time and place for taxes of any land on which the taxes
174 were due and not paid, but a sale made at the wrong time or at the



175 wrong place shall be void. Any person sustaining damages by
176 reason of any failure or error by the tax collector may recover
177 damages therefor on his official bond.

178 (4) A tax collector shall comply with Section 19-5-22(4) for
179 any tax sale due to a notice of delinquency for the fees
180 authorized by Section 19-5-21.

181 **SECTION 3.** This act shall take effect and be in force from
182 and after July 1, 2023.

