

By: Senator(s) Suber

To: Finance

SENATE BILL NO. 2859

1 AN ACT TO BRING FORWARD SECTIONS 27-41-55, 27-41-57,
2 27-41-59, 27-41-61, 27-41-63, 27-41-65, 27-41-67, 27-41-69,
3 27-41-71, 27-41-73, 27-41-75, 27-41-77, 27-41-79, 27-41-81,
4 27-41-83, 27-41-85, 27-41-87, 27-41-89 AND 27-45-27, MISSISSIPPI
5 CODE OF 1972, FOR THE PURPOSE OF POSSIBLE AMENDMENT; AND FOR
6 RELATED PURPOSES.

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

8 **SECTION 1.** Section 27-41-55, Mississippi Code of 1972, is
9 brought forward as follows:

10 27-41-55. Except as otherwise provided in Sections 27-41-2
11 and 27-41-59(2), after the fifth day of August in each year
12 hereafter, the tax collector shall advertise all lands in his
13 county on which all the taxes due and in arrears have not been
14 paid, as provided by law, as well as all land which is liable to
15 sale for the other taxes which have matured, as required by law,
16 for sale at the door of the courthouse of his county or any place
17 within the courthouse that the tax collector deems suitable to
18 hold such sale. The place or method of the sale shall be
19 designated by the tax collector in the advertisement of the notice
20 of tax sale on the last Monday of August. If the sale is to be



21 conducted online pursuant to Section 27-41-59(2), the
22 advertisement shall contain instructions on how to bid, including,
23 but not limited to, the times during which online bids may be made
24 at the online sale. The advertisement shall be inserted for two
25 (2) weeks in some newspaper published in the county, if there be
26 one, but in counties having two (2) court districts the lands
27 shall be advertised and sold in the district in which the lands
28 are situated and put up at the courthouse door thereof, or as
29 provided for in Section 27-41-59 for tax sales conducted online,
30 and shall contain a list of the lands to be sold in alphabetical
31 order by owner or in numerical order as they are contained in the
32 assessment roll, in substance as follows:

33	Name of	Division of	Town-	State	County	Total		
34	Owner	SECTION	Section	ship	Range	Tax	Tax	Tax

35 or by such other description as it may be assessed. Land in
36 cities and towns shall be described in the advertisement as it is
37 described on the assessment roll. Errors in alphabetical or
38 numerical order in the published or posted list of lands to be
39 sold shall not invalidate any sale made pursuant to the notice.

40 In addition to the foregoing provisions, and at the option of
41 the tax collector, advertisement for the sale of county lands may
42 be made after the fifteenth day of February in each year with the
43 sale of the lands to be held on the first Monday of April in each
44 year, and all of the provisions which relate to the tax sale held
45 in August of each year shall apply thereto.



46 **SECTION 2.** Section 27-41-57, Mississippi Code of 1972, is
47 brought forward as follows:

48 27-41-57. If there be no newspaper in the county, or if
49 there be none the proprietor of which will undertake and make the
50 publication for the compensation allowed by law, the tax collector
51 shall post such advertisement and a list of said lands at some
52 public place in each supervisor's district for said time, in
53 addition to the list posted at the courthouse. If there be no
54 newspaper published in the judicial district of the county where
55 the land is located, or there be none the proprietor of which will
56 undertake and make publication for the compensation allowed by
57 law, advertisement may be made in some newspaper published in the
58 county and having a circulation in said judicial district, in
59 addition to the posting required.

60 HISTORY: Codes, 1942, § 9922; Laws, 1934, ch. 188.

61 **SECTION 3.** Section 27-41-59, Mississippi Code of 1972, is
62 brought forward as follows:

63 27-41-59. (1) Except as otherwise provided in Section
64 27-41-2, on the first Monday of April, if the tax collector has
65 exercised his option to hold a tax sale on that day, and on the
66 last Monday of August, as the case may be, if the taxes remain
67 unpaid, the tax collector shall proceed to sell, for the payment
68 of taxes then remaining due and unpaid, together with all fees,
69 penalties and damages provided by law, the land or so much and
70 such parts of the land of each delinquent taxpayer to the highest



71 and best bidder for cash as will pay the amount of taxes due by
72 him and all costs and charges. He shall first offer one hundred
73 sixty (160) acres or a smaller separately described subdivision,
74 if the land is less than one hundred sixty (160) acres. If the
75 first parcel so offered does not produce the amount due, then he
76 shall offer as an entirety all the land constituting one (1)
77 tract. Each separate assessment as it appears and is described on
78 the assessment roll shall constitute one (1) tract for the purpose
79 of sale for taxes, notwithstanding the fact that the person who is
80 the owner thereof, or to whom it is assessed, is the owner of or
81 is assessed with other lands, the whole of which constitutes one
82 (1) entire tract but appears on the assessment roll in separate
83 subdivisions. Upon offering the land of any delinquent taxpayer
84 constituting one (1) tract, if no person will bid for it, the
85 whole amount of taxes and all costs incident to the sale, the tax
86 collector shall strike it off to the state. Except as otherwise
87 provided in subsection (2) of this section, the sale shall be
88 continued from day to day within the hours from 8:30 o'clock in
89 the forenoon and 4:30 o'clock in the afternoon until completed.

90 (2) The tax collector is authorized to enter into an
91 agreement with an online provider to conduct tax sales using
92 online bidding and sale. Such agreement must be ratified by the
93 county board of supervisors in order to be binding. Upon
94 ratification of the agreement by the county board of supervisors,
95 the tax collector may conduct the tax sale online as provided in



96 this section. The time during which online bids can be made at a
97 tax sale conducted under this subsection shall be established in
98 the agreement and, if the tax sale is to be conducted using the
99 procedure authorized by this subsection, the time during which
100 online bids can be made at the sale shall be included in the
101 advertisement required by Section 27-41-55. In counties having
102 two (2) court districts, the online tax sale shall separate the
103 court districts into two (2) separate portals to distinguish each
104 district.

105 (3) A failure to advertise, an error in the advertisement,
106 or an error in conducting the sale shall not invalidate a sale at
107 the proper time and place for taxes of any land on which the taxes
108 were due and not paid, but a sale made at the wrong time or at the
109 wrong place shall be void. Any person sustaining damages by
110 reason of any failure or error by the tax collector may recover
111 damages therefor on his official bond.

112 **SECTION 4.** Section 27-41-61, Mississippi Code of 1972, is
113 brought forward as follows:

114 27-41-61. Land in cities, towns, or villages shall be sold
115 by lots or other subdivisions or descriptions by which it is
116 assessed; and it shall not be necessary to offer less than a lot,
117 but it shall not be an objection that less than a lot was sold if
118 it bring enough to pay the taxes for which it is sold.

119 **SECTION 5.** Section 27-41-63, Mississippi Code of 1972, is
120 brought forward as follows:



121 27-41-63. If a tax collector sells any land after he shall
122 have received the taxes due thereon, he shall refund to the
123 purchaser the money paid and such sale shall be void.

124 **SECTION 6.** Section 27-41-65, Mississippi Code of 1972, is
125 brought forward as follows:

126 27-41-65. If from any cause a sale of any land for taxes
127 which is liable to such sale shall not be made at the time
128 appointed by law for such sale, it may be sold thereafter, in the
129 same or a subsequent year, at any time designated therefor by
130 order of the board of supervisors. Notice of a sale so ordered
131 shall be given by advertising it in the manner prescribed by law
132 for the sale of land for taxes; and the same shall be made at the
133 same place and subject to all the provisions of law applicable to
134 such sales at the time appointed by law. Lists of lands sold to
135 the state and to individuals shall be filed in the office of the
136 clerk of the chancery court within the same relative period of
137 time after the sale as is allowed for filing such lists after
138 sales at the regular time, and the clerk shall at once record
139 them; and such lists shall be as valid and have the same effect
140 and be subject to all the provisions of law applicable to such
141 lists made of lands sold at the regular sale for taxes.

142 **SECTION 7.** Section 27-41-67, Mississippi Code of 1972, is
143 brought forward as follows:

144 27-41-67. If from inadvertence or oversight a sale of any
145 land for taxes which is liable to such sale shall not be made at



the regular time appointed by law for such sale, it may be sold thereafter at any time designated therefor by an order of the board of supervisors, which order need not describe the land to be sold nor give the names of the owners of the land to be sold. Notice of a sale so ordered shall be given by advertising it in the manner prescribed by law for the sale of land for taxes; and the same shall be made at the same place and subject to all the provisions of law applicable to such sales at the time appointed by law. Lists of lands sold to the state and to individuals shall be filed in the office of the clerk of the chancery court within the same relative period of time after the sale as is allowed for filing such lists after sales at the regular time, and the clerk shall at once record them; and such lists shall be as valid and have the same effect and be subject to all the provisions of law applicable to such lists made of lands sold at the regular sale for taxes. This section shall not be construed as giving the tax collector any discretion to postpone the sale of lands from the time appointed by law for such sales.

SECTION 8. Section 27-41-69, Mississippi Code of 1972, is brought forward as follows:

27-41-69. In case of grave public emergency, to be determined by the Commissioner of Revenue of the Department of Revenue, with the approval of the Governor and Attorney General, the Commissioner of Revenue, may postpone in any county the date fixed by law for the sale of lands for delinquent taxes. In the



event any such sale is postponed, the Commissioner of Revenue of the Department of Revenue, with the approval of the Governor and Attorney General, shall designate a date for such sale. Notice of a sale shall be given by advertising it in the manner prescribed by law for the sale of land for taxes; and the same shall be made at the same place and subject to all the provisions of law applicable to such sales at the time appointed by law, and lists of lands sold to the state and to individuals shall be filed in the office of the clerk of the chancery court within the same relative period of time after the sale as is allowed for filing such lists after sales at the regular time, and the clerk shall at once record them; and such lists shall be as valid and have the same effect and be subject to all the provisions of law applicable to such lists made of lands sold at the regular sale for taxes. The Commissioner of Revenue of the Department of Revenue shall provide notice to the clerk of the board of supervisors of the postponement of any sale for taxes in such county and the clerk of the board of supervisors shall enter such notice on the minutes of the board, but the failure of the Commissioner of Revenue to so notify the clerk of the board of supervisors to so record the same shall not invalidate any sale made hereunder.

SECTION 9. Section 27-41-71, Mississippi Code of 1972, is brought forward as follows:

27-41-71. No civil suit or action shall hereafter be brought by or on behalf of the state or any of its districts,



municipalities or political subdivisions on account of the failure, prior to the passage of this chapter, of any tax collector, whether county, district, municipal or levee district, to have held any tax sale of lands for delinquent taxes on the date fixed therefor by law.

SECTION 10. Section 27-41-73, Mississippi Code of 1972, is brought forward as follows:

27-41-73. If the purchaser of land at tax sale shall not immediately pay the amount of his bid, the collector shall offer the land again; and if some person will not then bid the amount of taxes and costs, it shall be struck off to the state, as in other cases; but the first purchaser shall be liable for the amount of his bid, to be collected by suit by tax collector in the name of the state. On the same being collected, the tax collector shall notify the chancery clerk of the county, and the clerk shall strike the said lands from the records of land sold to the state, and shall enter said land on the list of lands sold to individuals to be subsequently dealt with as other lands sold to individuals.

SECTION 11. Section 27-41-75, Mississippi Code of 1972, is brought forward as follows:

27-41-75. The tax collector shall, upon payment of the purchase price, deliver to the purchaser of lands sold for taxes a receipt showing the amount paid, a description of the land sold, the amount of taxes due thereon, and the date of the sale; and such receipt signed by the tax collector shall be evidence of the



purchase of said land by said purchaser. The State Auditor shall prescribe the form to be used for said receipt.

SECTION 12. Section 27-41-77, Mississippi Code of 1972, is brought forward as follows:

27-41-77. If any land be sold for more than the amount of taxes due and all costs, the tax collector shall report the amount of excess to the chancery clerk, and on his receipt warrant therefor, shall pay the same into the county treasury. The board of supervisors is directed to transfer all such funds so received to the general funds of the county. If the land be redeemed, or the title of the purchaser be defeated or set aside in any way or for any reason, such excess shall be retained by the county. If only a part of the land be redeemed, the excess shall be apportioned ratably to the amount of taxes due at the time of the sale on the respective parts. The owner of the land may demand of the tax collector a memorandum or receipt showing the amount of excess if any, and, upon the expiration of the period of redemption, without the property being redeemed, such excess shall, upon the request of the owner, be paid to said owner. If the owner of the property does not request payment of the excess within two (2) years from the expiration of the period of redemption, the excess shall be retained by the county. Whenever any person shall present a claim against the excess fund, within the time period provided, certified to by the chancery clerk, the



board of supervisors shall order a warrant to issue therefor on the general county fund.

SECTION 13. Section 27-41-79, Mississippi Code of 1972, is brought forward as follows:

27-41-79. The tax collector shall on or before the second Monday of May and on or before the second Monday of October of each year, transmit to the clerk of the chancery court of the county separate certified lists of the lands struck off by him to the state and that sold to individuals, specifying to whom assessed, the date of sale, the amount of taxes for which sale was made, and each item of cost incident thereto, and where sold to individuals, the name of the purchaser, such sale to be separately recorded by the clerk in a book kept by him for that purpose. Except as otherwise provided in Section 27-41-49, all such lists shall vest in the state or in the individual purchaser thereof a perfect title to the land sold for taxes, but without the right of possession for the period of and subject to the right of redemption; but a failure to transmit or record a list or a defective list shall not affect or render the title void. If the tax collector or clerk shall fail to perform the duties herein prescribed, he shall be liable to the party injured by such default in the penal sum of Twenty-five Dollars (\$25.00), and also on his official bond for the actual damage sustained. The lists hereinabove provided shall, when filed with the clerk, be notice to all persons in the same manner as are deeds when filed for



record. The lists of lands hereinabove referred to shall be filed by the tax collector in May for sales made in April and in October for sales made in September, respectively.

SECTION 14. Section 27-41-81, Mississippi Code of 1972, is brought forward as follows:

27-41-81. The tax collector shall on or before the first Monday of June transmit to the clerk of the chancery court of the county separate certified lists of the lands struck off by him to the state and that sold to individuals, specifying to whom assessed, the day of the sale, the amount of taxes for which the sale was made and each item of cost incidental thereto, and, where sold to individuals, the name of the purchaser, to be separately recorded by the clerk in books kept by him for that purpose. Except as otherwise provided in Section 27-41-59, the lists shall vest in the state or the individual purchaser thereof a perfect title to the land sold for taxes, but without the right of possession and subject to the right of redemption; but a failure to transmit or record a list, or a defective list, shall not affect or render the title void. If the tax collector or clerk shall fail to perform the duties herein prescribed, he shall be liable to the party injured by such default in the penal sum of Twenty-five Dollars (\$25.00), and also on his bond for the actual damages sustained.



The list hereinabove provided shall, when filed with the clerk, be notice to all persons in the same manner as are deeds when filed for record.

SECTION 15. Section 27-41-83, Mississippi Code of 1972, is brought forward as follows:

27-41-83. The owner of lands sold or struck off to this state as provided in Section 27-41-81 shall not have the right to cut merchantable timber, cordwood or brush from any such land until such land be redeemed from the tax sale and title again be perfected in the individual owner thereof, and such former owner of said property during the period of redemption shall not have the right to prospect for or to extract and/or attempt to extract from any such lands so forfeited to the state for nonpayment of taxes any minerals, stone or gravel that may be found on or under said land, and provided further that the former owner of any land so forfeited to the state for nonpayment of taxes shall commit no waste on the lands or premises so forfeited to the state during the period of redemption.

If the former owner or any other person in violation of the provisions of this section cuts, fells, removes or otherwise injures any tree on property forfeited to the state for taxes either during the period of redemption or after the title matures in the state, or extracts, or attempts to extract, minerals therefrom including rock, stone and gravel, commits or permits to be committed waste or any other trespass on such land, such person



shall be liable for a penalty in the sum of Five Dollars (\$5.00) per acre for each acre upon which any trespass or violation of this section is committed, and, in addition to said penalty, such person shall be liable for actual damages for the property taken or injured. All such penalties and damages may be recovered in one and the same action and suits to recover the same shall be instituted and prosecuted in the name of the state by the Attorney General and any penalties and damages recovered in such actions shall be apportioned fifty percent (50%) to the state and fifty percent (50%) to the county in which the land lies. Provided that during the period of redemption the owner may cut and use wood from contiguous woodlands for fuel, fences and like farm purposes, but not for sale.

Any person violating any of the provisions of this section shall be guilty of a misdemeanor and, upon conviction therefor, shall be fined not less than Ten Dollars (\$10.00) nor more than Fifty Dollars (\$50.00), in the discretion of the court, and upon the second offense, may be sentenced to serve not more than sixty (60) days in the county jail, in the discretion of the trial court.

SECTION 16. Section 27-41-85, Mississippi Code of 1972, is brought forward as follows:

27-41-85. The Attorney General, by and with the consent of the Governor, may employ special counsel to assist him in the investigation and prosecution of such claims or demands and suits



under Section 27-41-83; and he may contract to pay such attorneys so employed such reasonable compensation as may be agreed upon, not to exceed twenty percent (20%) of the amount recovered and collected.

SECTION 17. Section 27-41-87, Mississippi Code of 1972, is brought forward as follows:

27-41-87. The board of supervisors of any county affected is hereby authorized to pay such reasonable expenses, except attorneys' fees, as may be incurred in obtaining information deemed necessary to maintain an action under Section 27-41-83.

In any case where funds are received by the Attorney General in consequence of any action or demand under Section 27-41-83, involving lands in more than one (1) county, and where the court in which said suit was filed does not allot the funds between said counties, or where said counties cannot agree among themselves as to the proper distribution of such funds, then the Attorney General may apply to the chancery court in the county where the land or some part thereof is located in vacation or in term time for an allotment and distribution of the funds between the counties. It shall be the duty of the Attorney General in such case to notify the interested counties that he has filed such application, and he shall notify them when and where said application will be heard. The judgment of the chancellor in such matters will be final, and the Attorney General shall distribute said funds in accordance with the chancellor's order, and a copy



of said order shall be filed with the chancery clerk in each of the interested counties. The counties shall have the right to agree among themselves as to the proper distribution of any such fund; and where such agreement is had, it shall be entered on the minutes of the board of supervisors in each county, and the Attorney General shall then distribute the funds in accordance therewith. However, it shall be the duty of the court hereafter, in which suit is filed or tried, to make proper distribution of such funds between said counties.

SECTION 18. Section 27-41-89, Mississippi Code of 1972, is brought forward as follows:

27-41-89. Sections 27-41-81 through 27-41-87 are to be construed to be cumulative and in addition to other remedies given the state for the protection of lands forfeited to the state for taxes.

SECTION 19. Section 27-45-27, Mississippi Code of 1972, is brought forward as follows:

27-45-27. (1) The amount paid by the purchaser of land at any tax sale thereof for taxes, either state and county, levee or municipal, and interest on the amount paid by the purchaser at the rate of one and one-half percent (1-1/2%) per month, or any fractional part thereof, and all expenses of the sale and registration, thereof shall be a lien on the land in favor of the purchaser and the holder of the legal title under him, by descent or purchase, if the taxes for which the land was sold were due,



393 although the sale was illegal on some other ground. The purchaser
394 and the holder of the legal title under him by descent or
395 purchase, may enforce the lien by bill in chancery, and may obtain
396 a decree for the sale of the land in default of payment of the
397 amount within some short time to be fixed by the decree. In all
398 suits for the possession of land, the defendant holding by descent
399 or purchase, mediately or immediately, from the purchaser at tax
400 sale of the land in controversy, may set off against the
401 complainant the above-described claim, which shall have the same
402 effect and be dealt with in all respects as provided for
403 improvements in a suit for the possession of land. But the term
404 "suits for the possession of land," as herein used, does not
405 include an action of unlawful entry and detainer.

406 (2) No purchaser of land at any tax sale, nor holder of the
407 legal title under him by descent or distribution, shall have any
408 right of action to challenge the validity of the tax sale.

409 (3) No county or municipal officer shall be liable to any
410 purchaser at a tax sale or any recipient of a tax deed for any
411 error or inadvertent omission by such official during any tax
412 sale.

413 **SECTION 20.** This act shall take effect and be in force from
414 and after July 1, 2025.

