

By: Flagg

To: Labor

HOUSE BILL NO. 211

1 AN ACT TO AMEND SECTION 71-5-367, MISSISSIPPI CODE OF 1972,
2 TO REVISE THE METHOD OF FILING LIENS FOR CERTAIN CONTRIBUTIONS
3 OWED TO THE STATE UNEMPLOYMENT COMPENSATION FUND; AND FOR RELATED
4 PURPOSES.

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

6 SECTION 1. Section 71-5-367, Mississippi Code of 1972, is
7 amended as follows:

8 71-5-367. If an employer shall file a report in proper form
9 and in proper amount, but shall fail to pay the amount of
10 contributions shown to be due thereby at the time of such filing,
11 or if an employer shall fail to pay any assessment as provided and
12 made under Section 71-5-365 within fifteen (15) days after such
13 assessment has become final as herein provided, the commission may
14 issue a warrant under its official seal, directed to the sheriff
15 of any county of the state, commanding him to levy upon and sell
16 the real and personal property of such employer as has defaulted
17 in the payment of such contributions or assessments, which may be
18 found within his county, for the payment of the amount thereof,
19 together with interest, damages, if any, assessed for failure to
20 make and file a report or a corrected or sufficient report, and an
21 additional sum not exceeding one hundred percent (100%) of the
22 amount of the unpaid contributions due, in the discretion of the
23 commission, as damages for failure to pay, if not already assessed
24 under Section 71-5-365 and the costs of executing the warrant and
25 to return such warrant to the commission, and to pay to it the
26 money collected by virtue thereof on the date specified therein.
27 The commission shall cause to be delivered to the circuit court a

28 copy of such warrant issued to the sheriff. Such clerk shall
29 enter in the judgment roll, in the column for judgment debtors,
30 the name of the employer mentioned in the warrant and, in
31 appropriate columns, the amount of contributions, interest and
32 damages for which the warrant is issued and the date when such
33 copy is filed. Thereupon the amount of such warrant so filed and
34 entered shall become a lien upon the title to and interest in all
35 real and personal property, including choses in action against
36 negotiable instruments not past due, of the employer against whom
37 the warrant is issued in the same manner as a judgment duly
38 enrolled in the office of such clerk. Any such liens shall cover
39 all contributions, interest and damages owed to the commission
40 from previous, current and future periods until the expiration of
41 such lien or until the amount of the lien is fully satisfied.
42 Such judgment shall not be a lien upon the property of the
43 employer for a period of more than seven (7) years from the date
44 of filing of the notice of the tax lien for failure to pay
45 contributions, damages and interest unless action be brought
46 thereon before the expiration of such time or less the commission
47 refiles such notice of tax lien before the expiration of such
48 time. The judgment shall be a lien upon the property of the
49 employer for a period of seven (7) years from the date of refiling
50 such notice of tax lien unless action be brought thereon before
51 the expiration of such time or unless the commission refiles such
52 notice of tax lien before the expiration of such time. There
53 shall be no limit upon the number of times the commission may
54 refile notices of tax liens. The sheriff shall proceed upon the
55 warrant in the same manner and with like effect as that provided
56 by law in respect to executions issued against property upon
57 judgments or in attachment proceedings of a court of record, and
58 the remedies by garnishment shall apply; and for his services in
59 executing the warrant the sheriff shall be entitled to the same
60 fees, which he may collect in the same manner.

61 The commission may elect to issue the warrant directly to the
62 circuit clerk of any county of this state for enrollment upon the
63 judgment rolls of the county. In such case, the clerk shall enter
64 in the judgment roll, in the column for judgment debtors, the name

65 of the employer mentioned in the warrant and, in appropriate
66 columns, the amount of contributions, interest and damages for
67 which the warrant is issued. The lien shall have the same effect
68 and remedies as that provided by law in respect to executions
69 issued against property upon judgments or in attachment
70 proceedings of a court of record, and the remedies by garnishment
71 shall apply.

72 On the suggestion of the commission, in writing, that any
73 person is indebted to an employer named in any warrant which has
74 been entered on the judgment roll in the office of the circuit
75 clerk of any county, or has property of such employer in his
76 hands, or knows of some other person who is so indebted, or who
77 has effects or property of such employer in his hands, it shall be
78 the duty of the clerk of the circuit court of such county to issue
79 a writ of garnishment directed to the sheriff or proper officer,
80 commanding him to summon such person as garnishee to appear at a
81 term of the circuit court of the county, or a term of the county
82 court, as in cases provided by law for garnishment upon the
83 judgments of such court, to answer accordingly. The * * * circuit
84 court or county court, as the case may be, shall assume full
85 jurisdiction over the subject matter and the parties, and all the
86 provisions of law with respect to garnishment proceedings
87 instituted in the circuit court under Sections 11-35-1 through
88 11-35-61 of the Mississippi Code of 1972, shall be applicable as
89 far as possible thereto.

90 SECTION 2. This act shall take effect and be in force from
91 and after July 1, 2000.