

By: Flagg

To: Labor

HOUSE BILL NO. 211  
(As Passed the House)

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 clerk of the

28 circuit court a copy of such warrant issued to the sheriff. Such  
29 clerk shall enter in the judgment roll, in the column for judgment  
30 debtors, 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 unless the  
47 commission refiles such notice of tax lien before the expiration  
48 of such time. The judgment shall be a lien upon the property of  
49 the employer for a period of seven (7) years from the date of  
50 refiling such notice of tax lien unless action be brought thereon  
51 before the expiration of such time or unless the commission  
52 refiles such notice of tax lien before the expiration of such  
53 time. There shall be no limit upon the number of times the  
54 commission may refile notices of tax liens. The sheriff shall  
55 proceed upon the warrant in the same manner and with like effect  
56 as that provided by law in respect to executions issued against  
57 property upon judgments or in attachment proceedings of a court of  
58 record, and the remedies by garnishment shall apply; and for his  
59 services in executing the warrant the sheriff shall be entitled to  
60 the same 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.