

By: Senator(s) Dearing, Minor, Hewes,
Stogner

To: Finance

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 2362

1 AN ACT TO AMEND SECTION 27-35-1, MISSISSIPPI CODE OF 1972, TO
2 PROVIDE THAT ANY OUTSTANDING TAX LIEN ON REAL PROPERTY ACQUIRED
3 FROM A PRIVATE OWNER BY A GOVERNMENTAL ENTITY FOR THE RIGHT-OF-WAY
4 OF ANY PUBLIC ROAD, STREET OR HIGHWAY SHALL BE EXTINGUISHED, BY
5 OPERATION OF LAW, IMMEDIATELY UPON ACQUISITION OF THE PROPERTY BY
6 THE GOVERNMENTAL ENTITY; TO PROVIDE THAT THE RIGHTS OF A PERSON
7 ACQUIRING SUCH PROPERTY AT A VALID TAX SALE MADE BEFORE
8 ACQUISITION OF THE PROPERTY BY THE GOVERNMENTAL ENTITY SHALL NOT
9 BE LIMITED OR AFFECTED; TO PROVIDE THAT A TAX SALE MADE AFTER SUCH
10 PROPERTY IS ACQUIRED BY A GOVERNMENTAL ENTITY SHALL BE VOID AS TO
11 SUCH PROPERTY; TO AMEND SECTION 27-35-3, MISSISSIPPI CODE OF 1972,
12 TO PROVIDE THAT WHENEVER REAL PROPERTY IS ACQUIRED FROM A PRIVATE
13 OWNER BY A GOVERNMENTAL ENTITY FOR THE RIGHT-OF-WAY OF ANY PUBLIC
14 ROAD, STREET OR HIGHWAY, THE COUNTY TAX ASSESSOR SHALL REASSESS
15 AND PRORATE THE ASSESSED VALUE FOR THE ENSUING YEAR AND SHALL
16 ASSESS TAXES AGAINST THE TAXPAYER ONLY FOR THAT PART OF THE YEAR
17 PRECEDING THE DATE THAT TITLE TO THE PROPERTY IS TRANSFERRED TO
18 THE GOVERNMENTAL ENTITY; TO PROVIDE THAT THE PROPERTY SHALL BE
19 EXEMPT FROM TAXATION FOR THE REMAINDER OF THE YEAR; TO AMEND
20 SECTION 27-35-5, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT
21 WHENEVER REAL PROPERTY IS ACQUIRED BY A GOVERNMENTAL ENTITY FOR
22 THE RIGHT-OF-WAY OF ANY PUBLIC ROAD, STREET OR HIGHWAY, THERE
23 SHALL BE NO PERSONAL LIABILITY FOR ANY AD VALOREM TAXES THAT,
24 AFTER THE DATE OF ACQUISITION, ARE ASSESSED UPON THE PROPERTY; AND
25 FOR RELATED PURPOSES.

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

27 **SECTION 1.** Section 27-35-1, Mississippi Code of 1972, is
28 amended as follows:

29 27-35-1. (1) Taxes (state, county and municipal) assessed
30 upon lands or personal property, excepting motor vehicles as
31 defined by the Motor Vehicle Ad Valorem Tax Law of 1958, Sections
32 27-51-1 through 27-51-49, shall bind the same and be entitled to
33 preference over all judgments, executions, encumbrances or liens
34 whenever created; and all such taxes assessed shall be a lien upon
35 and bind the property assessed. Except as provided in subsections
36 (3) and (4) of this section, the aforesaid tax lien shall attach
37 to all land situated within this state on January 1 of each year,
38 and upon any personal property so situated or brought into this



state at any time prior to March 1 of each year except as hereinafter provided. A tax lien shall attach to that personal property listed in an ordinance duly adopted by a county or municipality and to all heavy duty equipment at any time of the year such property is brought into or situated in this state. Such personal property shall not be subject to tax in more than one (1) county; and such county in which said property was located at the earliest taxable date shall have priority in the collection of such taxes. All taxes assessed on stock of goods or merchandise shall be based on the value of the inventory on January 1 of the tax year or the average monthly inventory during the preceding twelve (12) months from January 1 of each year and are specifically made a lien thereon regardless of changes in the items of which it may be composed; and no such property shall be exempt from distress or sale for taxes. It shall not be necessary to the validity of any assessment or of a sale of land for taxes that it shall be assessed to its true owner, but the taxes shall be a charge upon the land or personal property taxed and the sale shall be a proceeding against the thing sold and shall vest title in the purchaser without regard to who may own the land or other property when assessed, or when sold, or whether wrongfully assessed either to a person or to the state or any county, city, town or village, or subdivision of either. Provided, however, that the lien for municipal taxes shall be secondary and subordinate to the lien for state and county taxes.

(2) Heavy duty equipment shall mean any motor vehicle used primarily off the road for construction purposes whose gross weight exceeds sixteen thousand (16,000) pounds but shall not include inventory on hand for sale by duly licensed heavy equipment dealers.

(3) With respect to lands owned by the state, which lands are leased to private agricultural enterprises and taxable under Section 47-5-66, the tax lien provided for in this section shall



attach and be enforceable in the same manner as are other tax liens at the time the crop is harvested.

(4) Any outstanding tax lien on real property acquired for the right-of-way of any public road, street or highway from a private person, partnership, company, corporation or other legal entity by the state, a county, a municipality or other governmental entity in its proprietary capacity or through exercise of the power of eminent domain shall be extinguished, by operation of law, immediately upon acquisition of the property by the governmental entity. The governmental entity that acquires such property shall notify the tax assessor of the county in which such property is located of such acquisition. The rights of a person acquiring such property at a valid tax sale made before acquisition of the property by the governmental entity shall not be limited or affected, but any tax sale made after the property is acquired by a governmental entity shall be void as to such property. Money paid by a person at a valid tax sale made before the acquisition of the property shall be refunded with interest to such person.

SECTION 2. Section 27-35-3, Mississippi Code of 1972, is amended as follows:

27-35-3. All taxable real property situated in the state acquired or held by any person before January 1 of each year, and all other taxable property so situated or brought into this state at any time prior to March 1 of each year, shall be assessed and taxes thereon paid for the ensuing year with the exception of heavy duty equipment as defined in Section 27-35-1(2). Heavy duty equipment shall be assessed and taxes thereon paid at any time such equipment is acquired or brought into this state for use as construction equipment, and such assessment shall be prorated with respect to the number of months remaining in the year. Such other property shall not be assessed by more than one (1) county, and such county in which said property was located at the earliest



taxable date in any year shall have priority in the assessment of such taxes.

Provided, however, that when a municipality is created or the corporate limits thereof extended after January 1 of any year it shall have, prior to July 1 of said year, the full right and power to assess said property and collect taxes for the current year to the same extent as if it had been created or limits extended prior to January 1 of that year.

Whenever real property is acquired for the right-of-way of a public road, street or highway from a private person, partnership, company, corporation or other legal entity by the state, a county, a municipality or other governmental entity in its proprietary capacity or through exercise of the power of eminent domain, the tax assessor of the county in which the property is located shall reassess and prorate the assessed value, taking into account the amount and value of the property acquired and the date upon which title is transferred to the governmental entity. The taxpayer shall be assessed taxes only for that part of the year preceding the date that title to the property is transferred to the governmental entity, and the property shall be exempt from taxation for the remainder of the year.

Nothing in this section shall be construed to limit the power of the state to define and declare the situs of particular species of property having no fixed situs at some place in this state.

SECTION 3. Section 27-35-5, Mississippi Code of 1972, is amended as follows:

27-35-5. Every lawful tax including all increases, penalties and interest which may be or become owing or assessed, levied or imposed by the state or by a county, municipality or levee board, whether ad valorem (including all school district taxes), privilege, excise, income or inheritance, is a debt due by the person or corporation owning the property or carrying on the business or profession upon which the tax is levied or imposed,



138 whether properly assessed or not, or by the person liable for the
139 income, inheritance or excise tax, and may be recovered by action
140 by any officer authorized to sue for or collect same. Said
141 increases, interest and penalties shall be recoverable as a part
142 of the tax with respect to which they are imposed. The recovery
143 of a personal judgment for taxes on land or personal property
144 against the owner shall not extinguish the tax lien. In all
145 actions for the recovery of ad valorem taxes the assessment roll
146 shall be only prima facie correct.

147 Whenever real property is acquired by a governmental entity
148 for the right-of-way of any public road, street or highway, there
149 shall be no personal liability for any ad valorem taxes that,
150 after the date of acquisition, are assessed upon the property.

151 **SECTION 4.** This act shall take effect and be in force from
152 and after its passage.

