

By: Representative Smith

To: Ways and Means

COMMITTEE SUBSTITUTE  
FOR  
HOUSE BILL NO. 1384

1 AN ACT TO AMEND SECTIONS 27-7-55, 27-13-29, 27-65-57 AND  
2 27-67-21, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT JUDGMENTS  
3 AGAINST TAXPAYERS FOR FAILURE OR REFUSAL TO PAY INCOME TAXES,  
4 FRANCHISE TAXES, SALES TAXES OR USE TAXES SHALL NOT BE A LIEN UPON  
5 THE TAXPAYER'S PROPERTY FOR MORE THAN TEN YEARS FROM THE DATE OF  
6 THE FILING OF THE NOTICE OF TAX LIEN FOR THOSE TAXES UNLESS AN  
7 ACTION IS BROUGHT ON THE LIEN BEFORE THE EXPIRATION OF SUCH TIME;  
8 TO PROVIDE THAT IF AN ACTION IS BROUGHT TO REDUCE THE LIEN TO A  
9 JUDGMENT WITHIN SUCH TIME, THE JUDGMENT SHALL RELATE BACK TO THE  
10 DATE THAT THE NOTICE OF TAX LIEN WAS FILED, AND THE JUDGMENT MAY  
11 BE RENEWED AS PROVIDED BY LAW; AND FOR RELATED PURPOSES.

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

13 **SECTION 1.** Section 27-7-55, Mississippi Code of 1972, is  
14 amended as follows:

15 27-7-55. If any taxpayer, liable for the payment of income  
16 taxes, penalties or interest, fails or refuses to pay them after  
17 receiving the notice and demands as provided in Sections 27-7-49,  
18 27-7-51 and 27-7-53, and if the taxpayer has not filed a timely  
19 appeal to the board of review as provided by law, the commissioner  
20 may file a notice of tax lien for the income taxes, penalties and  
21 interest with the circuit clerk of the county in which the  
22 taxpayer resides or owns property, which shall be enrolled on the



23 judgment roll. Immediately upon receipt of the notice of tax lien  
24 for income taxes, penalties and interest, the circuit clerk shall  
25 enter upon the judgment roll, in the appropriate columns, the name  
26 of the taxpayer as judgment debtor, the name of the commissioner  
27 or Department of Revenue as judgment creditor, the amount of the  
28 taxes, penalties and interest, and the date and time of  
29 enrollment. The judgment shall be valid as against mortgagees,  
30 pledgees, entrusters, purchasers, judgment creditors, and other  
31 persons from the time of filing with the clerk. The amount of the  
32 judgment shall be a debt due the State of Mississippi and remain a  
33 lien upon all property and rights to property belonging to the  
34 taxpayer, both real and personal, including choses in action, with  
35 the same force and like effect as any enrolled judgment of a court  
36 of record, and shall continue until satisfied \* \* \*. However, the  
37 judgment shall not be a lien upon the property of the taxpayer for  
38 a longer period than \* \* \* ten (10) years from the date of the  
39 filing of the notice of tax lien for income taxes, penalties and  
40 interest unless an action is brought on the lien before the  
41 expiration of such time \* \* \*. If an action is brought to reduce  
42 the lien to a judgment within ten (10) years from the date of the  
43 filing of the notice of tax lien, the judgment shall relate back  
44 to the date that the notice of tax lien was filed, and the  
45 judgment may be renewed as provided in Section 15-1-43. The  
46 judgment shall serve as authority for the issuance of writs of  
47 execution, writs of attachment, writs of garnishment or other



48 remedial writs. The commissioner may issue warrants for  
49 collection of income taxes from such judgments in lieu of the  
50 issuance of any remedial writ by the circuit clerk.

51 Upon failure to pay the taxes imposed under this article by  
52 any taxpayer who has executed any bond, the commissioner shall  
53 give notice of the failure to the sureties of the bond and demand  
54 payment of the tax, penalties and interest within ten (10) days.  
55 If the sureties of the taxpayer's bond shall fail or refuse to pay  
56 the penal sum demanded within the ten (10) days allowed, the  
57 commissioner may file a notice of tax lien with the circuit clerk  
58 of the county in which the sureties reside or own property, which  
59 shall be enrolled upon the judgment roll, and the commissioner may  
60 proceed to collect from the sureties as provided in this section  
61 for collecting from any judgment debtor.

62 The commissioner is \* \* \* authorized to pay the clerk's fee  
63 for enrolling certificates of indebtedness and any court costs  
64 that may be adjudged against the department or commissioner out of  
65 funds appropriated by the Legislature to defray expenses of the  
66 Department of Revenue.

67 **SECTION 2.** Section 27-13-29, Mississippi Code of 1972, is  
68 amended as follows:

69 27-13-29. If any taxpayer, liable for the payment of  
70 franchise taxes, penalties or interest, fails or refuses to pay  
71 them after receiving the notice and demands as provided in Section  
72 27-13-23 or 27-13-25, and if such taxpayer has not filed a timely



73 appeal to the board of review as provided by law, the commissioner  
74 may file a notice of tax lien for the franchise taxes, penalties,  
75 and interest with the circuit clerk of the county in which the  
76 taxpayer resides or owns property, which, shall be enrolled on the  
77 judgment roll. Immediately upon receipt of the notice of tax lien  
78 for franchise taxes, penalties and interest, the circuit clerk  
79 shall enter upon the judgment roll, in the appropriate columns,  
80 the name of the taxpayer as judgment debtor, the name of the  
81 commissioner or Department of Revenue as judgment creditor, the  
82 amount of the taxes, penalties and interest, and the date and time  
83 of enrollment. The judgment shall be valid as against mortgagees,  
84 pledgees, entrusters, purchasers, judgment creditors, and other  
85 persons from the time of filing with the clerk. The amount of the  
86 judgment shall be a debt due the State of Mississippi and remain a  
87 lien upon all property and rights to property belonging to the  
88 taxpayer, both real and personal, including choses in action, with  
89 the same force and like effect as any enrolled judgment of a court  
90 of record, and shall continue until satisfied. However, the  
91 judgment shall not be a lien upon the property of the taxpayer for  
92 a longer period than ten (10) years from the date of the filing of  
93 the notice of tax lien for franchise taxes, penalties and interest  
94 unless an action is brought on the lien before the expiration of  
95 such time. If an action is brought to reduce the lien to a  
96 judgment within ten (10) years from the date of the filing of the  
97 notice of tax lien, the judgment shall relate back to the date



98 that the notice of tax lien was filed, and the judgment may be  
99 renewed as provided in Section 15-1-43. Such judgment shall serve  
100 as authority for the issuance of writs of execution, writs of  
101 attachments, writs of garnishment or other remedial writs. The  
102 commissioner may issue warrants for collection of franchise taxes  
103 from such judgments in lieu of the issuance of any remedial writ  
104 by the circuit clerk.

105       Upon failure to pay the taxes imposed under this chapter by  
106 any taxpayer who has executed any bond, the commissioner shall  
107 give notice of the failure to the sureties of such bond and demand  
108 payment of the tax, penalties and interest within ten (10) days.  
109 If the sureties of the taxpayer's bond shall fail or refuse to pay  
110 the penal sum demanded within the ten (10) days allowed, the  
111 commissioner may file a notice of tax lien with the circuit clerk  
112 of the county in which the sureties reside or own property, which  
113 shall be enrolled upon the judgment roll, and the commissioner may  
114 proceed to collect from the sureties as provided in this section  
115 for collecting from any judgment debtor.

116       The commissioner is \* \* \* authorized to pay the clerk's fee  
117 for enrolling certificates of indebtedness and any court costs  
118 that may be adjudged against the department or commissioner out of  
119 funds appropriated by the Legislature to defray expenses of the  
120 Department of Revenue.

121       **SECTION 3.** Section 27-65-57, Mississippi Code of 1972, is  
122 amended as follows:



123           27-65-57. If any person liable for the payment of sales  
124 taxes, damages or interest fails or refuses to pay them after  
125 receiving the notice and demand as provided in Sections 27-65-35  
126 and 27-65-37, and if such person has not filed a timely appeal to  
127 the board of review as provided by law, the commissioner may file  
128 a notice of a tax lien for the sales taxes, damages and interest  
129 with the circuit clerk of the county in which the taxpayer resides  
130 or owns property which shall be enrolled as a judgment on the  
131 judgment roll.

132           Immediately upon receipt of the notice of the tax lien for  
133 sales taxes, damages and interest, the circuit clerk shall enter  
134 the notice of a tax lien as a judgment upon the judgment roll and  
135 show in the appropriate columns the name of the taxpayer as  
136 judgment debtor, the name of the commissioner or \* \* \* Department  
137 of Revenue as judgment creditor, the amount of the taxes, damages  
138 and interest, and the date and time of enrollment. The judgment  
139 shall be valid as against mortgagees, pledgees, entrusters,  
140 purchasers, judgment creditors, and other persons from the time of  
141 filing with the clerk. The amount of the judgment shall be a debt  
142 due the State of Mississippi and remain a lien upon all property  
143 and rights to property belonging to the taxpayer, both real and  
144 personal, including choses in action, with the same force and like  
145 effect as any enrolled judgment of a court of record, and shall  
146 continue until satisfied. The judgment shall be the equivalent of  
147 any enrolled judgment of a court of record and shall serve as



148 authority for the issuance of writs of execution, writs of  
149 attachment, writs of garnishment or other remedial writs. The  
150 commissioner may issue warrants for collection of sales taxes from  
151 such judgments, in lieu of the issuance of any remedial writ by  
152 the circuit clerk, as provided in Sections 27-65-59 and 27-65-61  
153 hereof \* \* \*. However, such judgment shall not be a lien upon the  
154 property of the taxpayer for a longer period than \* \* \* ten (10)  
155 years from the date of the filing of the notice of tax lien for  
156 sales taxes, damages and interest unless action \* \* \* is  
157 brought \* \* \* on the lien before the expiration of such  
158 time \* \* \*. If an action is brought to reduce the lien to a  
159 judgment within ten (10) years from the date of the filing of the  
160 notice of tax lien, the judgment shall relate back to the date  
161 that the notice of tax lien was filed, and the judgment may be  
162 renewed as provided in Section 15-1-43.

163       Upon failure to pay the taxes imposed under this chapter by  
164 any taxpayer who has executed any bond under provisions of this  
165 chapter, the commissioner shall give notice of the failure to the  
166 sureties of the bond and demand payment of the tax, damages and  
167 interest within ten (10) days. If the sureties on the taxpayer's  
168 bond shall fail or refuse to pay the penal sum demanded within the  
169 ten (10) days allowed, the commissioner shall file a notice of tax  
170 lien with the circuit clerk of the county in which the sureties  
171 reside or own property which shall be enrolled upon the judgment  
172 roll, and the commissioner may proceed to collect from the



173 sureties as hereinafter provided for collecting from any judgment  
174 debtor.

175 The commissioner is \* \* \* authorized to pay the clerk's fee  
176 for enrolling the notice of tax lien out of funds appropriated by  
177 the Legislature to defray expenses of the \* \* \* Department of  
178 Revenue.

179 **SECTION 4.** Section 27-67-21, Mississippi Code of 1972, is  
180 amended as follows:

181 27-67-21. The tax imposed by this article or damages  
182 assessed or interest applied by authority of this article shall  
183 constitute a debt due the State of Mississippi and shall be a lien  
184 upon the property or rights to property of any person subject to  
185 the provisions of this article from the date of assessment until  
186 paid.

187 However, the debt due shall not be a lien upon the property  
188 of the taxpayer for a longer period than ten (10) years from the  
189 date of the filing of the notice of tax lien for use taxes,  
190 penalties and interest unless an action is brought on the lien  
191 before the expiration of such time. If an action is brought to  
192 reduce the lien to a judgment within ten (10) years from the date  
193 of the filing of the notice of tax lien, the judgment shall relate  
194 back to the date that the notice of tax lien was filed, and the  
195 judgment may be renewed as provided in Section 15-1-43.

196 **SECTION 5.** This act shall take effect and be in force from  
197 and after July 1, 2016.

