

By: Senator(s) McCaughn

To: Finance

SENATE BILL NO. 2814

1 AN ACT TO REPEAL SECTIONS 27-31-77, 27-31-79, 27-31-81,
2 27-31-83 AND 27-31-85, MISSISSIPPI CODE OF 1972, WHICH PROVIDE FOR
3 THE MINERAL DOCUMENTARY TAX; TO AMEND SECTIONS 27-31-71, 27-31-73,
4 27-31-75 AND 9-1-43, MISSISSIPPI CODE OF 1972, TO CONFORM; AND FOR
5 RELATED PURPOSES.

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

7 **SECTION 1.** Sections 27-31-77, 27-31-79, 27-31-81, 27-31-83
8 and 27-31-85, Mississippi Code of 1972, which provide for the
9 mineral documentary tax, are repealed.

10 **SECTION 2.** Section 27-31-71, Mississippi Code of 1972, is
11 amended as follows:

12 27-31-71. Whenever the term "oil, gas and other minerals" is
13 used in Sections 27-31-71 through * * * 27-31-75, the same shall
14 include oil, gas petroleum, hydro-carbons, distillate, condensate,
15 casinghead gas, other petroleum derivatives, sulphur and all other
16 similar minerals of commercial value which are usually produced or
17 mined by the drilling, boring or sinking of wells.

18 The terms "mineral acre" and "royalty acre" are each defined
19 as the number of acres obtained by multiplying the aggregate



20 acreage described in the instrument involved by the fractional
21 interest leased or conveyed thereby.

22 The term "primary term" when used herein in connection with
23 any instrument affected by Sections 27-31-71 through * * *
24 27-31-75 shall mean the period of time that the estate created by
25 such instrument shall endure under the terms thereof in the
26 absence of production of oil, gas or other minerals in paying
27 quantities, the carrying on of drilling or reworking operations
28 for the production of such oil, gas or other minerals, force
29 majeure or laws, rules or regulations (federal or state)
30 preventing such drilling operations.

31 **SECTION 3.** Section 27-31-73, Mississippi Code of 1972, is
32 amended as follows:

33 27-31-73. To encourage the purchase of leases upon and
34 interests in oil, gas and other minerals in the State of
35 Mississippi, to encourage drilling for and production of such
36 minerals, and to relieve the taxing officials of the counties of
37 the state of the onerous duties of assessment for, collection of
38 and sale for ad valorem taxes for such interests (which the
39 Legislature finds are generally assessed at nominal values
40 resulting in taxes not commensurate with the services required of
41 such officers), all nonproducing leasehold interests upon all oil,
42 gas and other minerals in, on or under lands lying within the
43 State of Mississippi, created or assigned after the effective date
44 of Sections 27-31-71 through * * * 27-31-75, and also all



45 nonproducing interests in such oil, gas and other minerals
46 (including royalty interests therein) hereafter conveyed to a
47 grantee or purchaser or excepted or reserved to a grantor
48 separately and apart from the surface, shall be exempt from all ad
49 valorem taxes levied on or after January 1, 1947, by the State of
50 Mississippi, or any county, municipality, levee district, road
51 district, school district, drainage district or other taxing
52 district within the state or becoming a lien on or after said
53 date. Any sale for taxes of the surface or of the remainder of
54 the fee shall not in any manner whatsoever affect the interest or
55 interests hereby exempted.

56 For the same purpose and with like effect there is hereby
57 likewise exempted from such ad valorem taxation all such interests
58 created prior to the passage of Sections 27-31-71 through * * *
59 27-31-75 which are owned separately and apart from the
60 surface * * *.

61 **SECTION 4.** Section 27-31-75, Mississippi Code of 1972, is
62 amended as follows:

63 27-31-75. Application for such exemption upon existing
64 interests shall be made to the chancery clerk of the county
65 wherein the land lies in which such interest is owned, by filing
66 application in duplicate with the said clerk, which shall contain
67 the following information:

- 68 (a) Name of applicant;
69 (b) Address of applicant;



70 (c) Description of land affected (including aggregate
71 acreage);

72 (d) Fractional interest for which exemption is applied
73 and nature of such interest;

74 (e) Recording data concerning the instrument creating
75 the interest including grantor or lessor, grantee or lessee, date
76 of instrument, book and page of record and date of filing;

77 (f) Length of primary term;

78 (g) Recording data on instruments divesting original
79 party of any interest in a portion of original interest therein
80 conveyed; and

81 (h) Number of net mineral, royalty or lease acres on
82 which exemption is sought * * *.

83 * * *

84 Upon receipt of such application, * * * the chancery clerk
85 shall give it a serial number * * * and mark it filed, showing the
86 date received * * *. The clerk shall make a notation on the face
87 of the record of the instrument described in the application
88 showing * * * the serial number of the application. After such
89 notation is made, the original application, with the
90 required * * * notation, shall be returned to the applicant by
91 mailing to the address shown on the application (or delivered
92 otherwise to the applicant) and the duplicate application shall be
93 retained by the clerk as his permanent record.

94 * * *



95 **SECTION 5.** Section 9-1-43, Mississippi Code of 1972, is
96 amended as follows:

97 9-1-43. (1) After making deductions for employer
98 contributions paid by the chancery or circuit clerk to the Public
99 Employees' Retirement System under Sections 25-11-106.1 and
100 25-11-123(f) (4), employee salaries and related salary expenses,
101 and expenses allowed as deductions by Schedule C of the Internal
102 Revenue Code, no office of the chancery clerk or circuit clerk of
103 any county in the state shall receive fees as compensation for the
104 chancery clerk's or circuit clerk's services in excess of
105 Ninety-nine Thousand Five Hundred Dollars (\$99,500.00). All such
106 fees received by the office of chancery or circuit clerks that are
107 in excess of the salary limitation shall be deposited by such
108 clerk into the county general fund on or before April 15 for the
109 preceding calendar year. If the chancery clerk or circuit clerk
110 serves less than one (1) year, then he shall not receive as
111 compensation any fees in excess of that portion of the salary
112 limitation that can be attributed to his time in office on a pro
113 rata basis. Upon leaving office, income earned by any clerk in
114 his last full year of office but not received until after his last
115 full year of office shall not be included in determining the
116 salary limitation of the successor clerk. There shall be exempted
117 from the provisions of this subsection any monies or commissions
118 from private or governmental sources which: (a) are to be held by
119 the chancery or circuit clerk in a trust or custodial capacity as



120 prescribed in subsections (4) and (5); or (b) are received as
121 compensation for services performed upon order of a court or board
122 of supervisors which are not required of the chancery clerk or
123 circuit clerk by statute.

124 (2) It shall be unlawful for any chancery clerk or circuit
125 clerk to use fees in excess of Ninety-nine Thousand Five Hundred
126 Dollars (\$99,500.00), to pay the salaries or actual or necessary
127 expenses of employees who are related to such clerk by blood or
128 marriage within the first degree of kinship according to the civil
129 law method of computing kinship as provided in Sections 1-3-71 and
130 1-3-73. However, the prohibition of this subsection shall not
131 apply to any individual who was an employee of the clerk's office
132 prior to the date his or her relative was elected as chancery or
133 circuit clerk. The spouse and/or any children of the chancery
134 clerk or circuit clerk employed in the office of the chancery
135 clerk may be paid a salary; however, the combined annual salaries
136 of the clerk, spouse and any child of the clerk may not exceed an
137 amount equal to the salary limitation.

138 (3) The chancery clerk and the circuit clerk shall be liable
139 on their official bond for the proper deposit and accounting of
140 all monies received by his office. The State Auditor shall
141 promulgate uniform accounting methods for the accounting of all
142 sources of income by the offices of the chancery and circuit
143 clerk.



144 (4) There is created in the county depository of each county
145 a clearing account to be designated as the "chancery court clerk
146 clearing account," into which shall be deposited: (a) all such
147 monies as the clerk of the chancery court shall receive from any
148 person complying with any writ of garnishment, attachment,
149 execution or other like process authorized by law for the
150 enforcement of child support, spousal support or any other
151 judgment; (b) any portion of any fees required by law to be
152 collected in civil cases which are to pay for the service of
153 process or writs in another county; and (c) any other money as
154 shall be deposited with the court which by its nature is not, at
155 the time of its deposit, public monies, but which is to be held by
156 the court in a trust or custodial capacity in a case or proceeding
157 before the court. The clerk of the chancery court shall account
158 for all monies deposited in and disbursed from such account and
159 shall be authorized and empowered to draw and issue checks on such
160 account at such times, in such amounts and to such persons as
161 shall be proper and in accordance with law.

162 The following monies paid to the chancery clerk shall be
163 subject to the salary limitation prescribed under subsection (1):
164 (a) all fees required by law to be collected for the filing,
165 recording or abstracting of any bill, petition, pleading or decree
166 in any civil case in chancery; (b) all fees collected for land
167 recordings, charters, notary bonds, certification of decrees and
168 copies of any documents; (c) all land redemption * * *



169 commissions; and (d) any other monies or commissions from private
170 or governmental sources for statutory functions which are not to
171 be held by the court in a trust capacity. Such fees as shall
172 exceed the salary limitations shall be maintained in a bank
173 account in the county depository and accounted for separately from
174 those monies paid into the chancery court clerk clearing account.

175 (5) There is created in the county depository in each county
176 a clearing account to be designated as the "circuit court clerk
177 civil clearing account," into which shall be deposited: (a) all
178 such monies and fees as the clerk of the circuit court shall
179 receive from any person complying with any writ of garnishment,
180 attachment, execution or any other like process authorized by law
181 for the enforcement of a judgment; (b) any portion of any fees
182 required by law or court order to be collected in civil cases;
183 (c) all fees collected for the issuance of marriage licenses; and
184 (d) any other money as shall be deposited with the court which by
185 its nature is not, at the time of its deposit, public monies but
186 which is to be held by the court in a trust or custodial capacity
187 in a case or proceeding before the court.

188 There is created in the county depository in each county a
189 clearing account to be designated as the "circuit court clerk
190 criminal clearing account," into which shall be deposited: (a)
191 all such monies as are received in criminal cases in the circuit
192 court pursuant to any order requiring payment as restitution to
193 the victims of criminal offenses; (b) any portion of any fees and



194 fines required by law or court order to be collected in criminal
195 cases; and (c) all cash bonds as shall be deposited with the
196 court. The clerk of the circuit court shall account for all
197 monies deposited in and disbursed from such account and shall be
198 authorized and empowered to draw and issue checks on such account,
199 at such times, in such amounts and to such persons as shall be
200 proper and in accordance with law; however, such monies as are
201 forfeited in criminal cases shall be paid by the clerk of the
202 circuit court to the clerk of the board of supervisors for deposit
203 in the general fund of the county.

204 The following monies paid to the circuit clerk shall be
205 subject to the salary limitation prescribed under subsection (1):
206 (a) all fees required by law to be collected for the filing,
207 recording or abstracting of any bill, petition, pleading or decree
208 in any civil action in circuit court; (b) copies of any documents;
209 and (c) any other monies or commissions from private or
210 governmental sources for statutory functions which are not to be
211 held by the court in a trust capacity.

212 (6) The chancery clerk and the circuit clerk shall establish
213 and maintain a cash journal for recording cash receipts from
214 private or government sources for furnishing copies of any papers
215 of record or on file, or for rendering services as a notary
216 public, or other fees wherein the total fee for the transaction is
217 Ten Dollars (\$10.00) or less. The cash journal entry shall
218 include the date, amount and type of transaction, and the clerk



219 shall not be required to issue a receipt to the person receiving
220 such services. The State Auditor shall not take exception to the
221 furnishing of copies or the rendering of services as a notary by
222 any clerk free of charge.

223 In any county having two (2) judicial districts, whenever the
224 chancery clerk serves as deputy to the circuit clerk in one (1)
225 judicial district and the circuit clerk serves as deputy to the
226 chancery clerk in the other judicial district, the chancery clerk
227 may maintain a cash journal, separate from the cash journal
228 maintained for chancery clerk receipts, for recording the cash
229 receipts paid to him as deputy circuit clerk, and the circuit
230 clerk may maintain a cash journal, separate from the cash journal
231 maintained for circuit clerk receipts, for recording the cash
232 receipts paid to him as deputy chancery clerk. The cash receipts
233 collected by the chancery clerk in his capacity as deputy circuit
234 clerk and the cash receipts collected by the circuit clerk in his
235 capacity as deputy chancery clerk shall be subject to the salary
236 limitation prescribed under subsection (1).

237 (7) Any clerk who knowingly shall fail to deposit funds or
238 otherwise violate the provisions of this section shall be guilty
239 of a misdemeanor in office and, upon conviction thereof, shall be
240 fined in an amount not to exceed double the amount that he failed
241 to deposit, or imprisoned for not to exceed six (6) months in the
242 county jail, or be punished by both such fine and imprisonment.



243 **SECTION 6.** This act shall take effect and be in force from
244 and after October 1, 2025.

