

4/20/15

1:40 P.M.

Chapter No. 456
15/SS26/R757SG
aj 1/6/15

SENATE BILL NO. 2589

Originated in Senate Liz Welch Secretary

SENATE BILL NO. 2589

AN ACT TO AMEND SECTION 27-7-308, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT IN A SALE OF REAL PROPERTY AND ASSOCIATED TANGIBLE PERSONAL PROPERTY WHICH IS NOT CONSIDERED AN EXCHANGE OR TRADE OF SUCH PROPERTY AND WHICH RESULTS IN GROSS PROCEEDS GREATER THAN \$100,000.00 PAID BY THE BUYER TO THE SELLER AND OWNED BY A NONRESIDENT, THE SELLER, RATHER THAN THE BUYER, SHALL BE RESPONSIBLE FOR PAYING OVER TO THE DEPARTMENT OF REVENUE AN AMOUNT EQUAL TO 5% OF THE AMOUNT REALIZED BY THE SELLER; AND FOR RELATED PURPOSES.

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

SECTION 1. Section 27-7-308, Mississippi Code of 1972, is amended as follows:

27-7-308. (1) In a sale of real property and associated tangible personal property which is not considered an exchange or trade of such property, and * * * the sale results in gross proceeds greater than One Hundred Thousand Dollars (\$100,000.00) paid by the buyer to the seller or sellers, and the property is owned by a nonresident, the * * * seller shall withhold from the proceeds of the sale and pay * * * to the * * * Department of Revenue an amount equal to five percent (5%) of the amount realized by the seller on the sale. * * * If the amount required

to be * * * paid to the Department of Revenue pursuant to this subsection exceeds the net proceeds payable to the seller, the * * * seller shall * * * pay * * * to the * * * department only the net proceeds otherwise payable to the seller. For purposes of this section a corporation registered to do business in the State of Mississippi shall be considered a resident of the state.

(2) The failure of the * * * seller to pay to the * * * Department of Revenue the amount * * * provided for in subsection (1) of this section shall not impair or affect the title to such property, but the * * * seller shall be personally liable to the * * * Department of Revenue for any amounts required to be * * * paid according to subsection (1) of this section and not paid * * * to the * * * department.

(3) (a) If the seller determines that the amount required to be * * * paid pursuant to subsection (1) of this section will result in excess * * * payment on any gain required to be recognized from the sale, the seller may provide the * * * Department of Revenue an affidavit signed under penalties of perjury stating the amount of the gain required to be recognized from the sale, and the * * * seller shall * * * pay the applicable percentage of the amount of the gain required to be recognized, if any, stated in the affidavit rather than as provided in subsection (1) of this section.

(b) * * * If the amount required to be * * * paid pursuant to this subsection exceeds the net proceeds payable to the seller, the * * * seller shall * * * pay over to the * * * department only the net proceeds otherwise payable to the seller.

(4) If a * * * payment made pursuant to subsection (1) of this section results in an excess * * * payment on any gain required to be recognized from the sale, the seller may file a claim for refund of the excess * * * payment with the * * * department that includes an affidavit * * * signed by the seller under penalties of perjury stating the amount of the gain required to be recognized from the sale and the * * * department shall refund the difference between the amount * * * paid pursuant to subsection (1) of this section and the amount to be * * * paid as provided in subsection (3) of this section.

(5) The * * * seller shall be required to send to the * * * Department of Revenue the information returns for real estate transactions as required by the Internal Revenue Code of 1986, as amended.

(6) A person licensed under Section 73-35-1 et seq. and/or a closing agent who is involved in the sale of property governed by this section shall:

(a) Have no duty to the buyer, seller or any other party to such sale regarding the applicability of, compliance with, violation or enforcement of this section; and

(b) Not be liable to any party to such sale or the State of Mississippi for any damages sustained or liability of another arising under this section.

SECTION 2. This act shall take effect and be in force from and after July 1, 2015.

PASSED BY THE SENATE
March 30, 2015



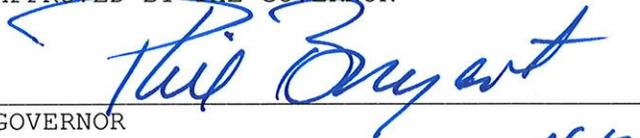
PRESIDENT OF THE SENATE

PASSED BY THE HOUSE OF REPRESENTATIVES
March 31, 2015



SPEAKER OF THE HOUSE OF REPRESENTATIVES

APPROVED BY THE GOVERNOR



GOVERNOR

4/20/15
1:40pm