



*Lynn Fitch*  
**ATTORNEY GENERAL**  
OPINIONS AND POLICY

December 5, 2024

Conrad Mord, Esq.  
Attorney, Walthall County Board of Supervisors  
Post Office Drawer 311  
Tylertown, Mississippi 39667

Re: Collecting Delinquent Garbage Fees on Sixteenth Section Land

Dear Mr. Mord:

The Office of the Attorney General has received your request for an official opinion.

### **Background**

The Walthall County Board of Supervisors has engaged in an effort to collect delinquent garbage fees and has made demand upon the Walthall County Board of Education (“Board of Education”) to pay delinquent garbage fees generated on sixteenth section leases by leaseholders who have abandoned the property and cannot be found.

### **Questions Presented**

1. Is the Board of Education an “owner” within the meaning and purview of Mississippi Code Annotated Section 19-5-22 and as such, liable for the garbage fees generated by a leaseholder?
2. If the Board of Education is not the “owner,” who is the “owner” under these circumstances?
3. Does the lien described in Section 19-5-22(2)(b) attach to sixteenth section leasehold properties, and if so, how is it to be collected/extinguished when the leaseholder abandons the leasehold property or refuses to pay?

### Brief Response

1. The Board of Education is not the owner of sixteenth section land but has control and jurisdiction of the land and all funds arising from the disposition thereof. Miss. Code Ann. § 29-3-1(1).
2. The state of Mississippi is the owner of sixteenth section land and holds the land in public trust for the benefit of public schools. *Oak Grove Marketplace v. Lamar Cnty. School Dist.*, 287 So. 3d 924, 928 (Miss. 2020).
3. The lien in Section 19-5-22(2)(b) attaches to the leasehold interest of the state-owned sixteenth section land, and the county may collect from the lessee.

### Applicable Law and Discussion

Section 29-3-1 provides in pertinent part:

(1) Sixteenth section school lands, or lands granted in lieu thereof, constitute *property held in trust for the benefit of the public schools* and must be treated as such. The *board of education under the general supervision of the state land commissioner, shall have control and jurisdiction of said school-trust lands and of all funds arising from any disposition thereof heretofore or hereafter made.* It shall be the duty of the board of education to manage the school trust lands and all funds arising therefrom as trust property.

(emphasis added). In response to your first and second questions, the Mississippi Supreme Court has said, “Sixteenth [s]ection [l]and is state-owned land, acquired when Mississippi became a state.” *Oak Grove Marketplace*, 287 So. 3d at 928 (internal citations omitted). The sixteenth section land is held in public trust by the state for the public schools’ benefit pursuant to Section 29-3-1(1), and the Board of Education has control and jurisdiction over said land. *Id.* at 928-29.

In response to your third question, Section 19-5-22(1) authorizes fees for garbage collection to be assessed jointly and severally against the generator of the garbage and the owner of the property receiving the service. Section 19-5-22(2)(b) provides that, subject to Subsection (6), these fees are liens upon the real property receiving the service. We have previously said that the leaseholder of sixteenth section land, as the generator of the garbage, is liable for garbage fees pursuant to Section 19-5-22 and that Subsection (5) authorizes the county, “to levy the garbage fee as a special assessment on the ad valorem tax statement *against the leasehold interest*, even though that person is not a fee ‘owner’ of the property.” MS AG Op., *Woodard* at \*3 (Aug. 27, 2010) (emphasis added). This is because even though sixteenth section land tenants are not “owners,” they do pay ad valorem taxes on the leasehold interest. *Id.* As such, it is also the opinion of this office that the lien in Section 19-5-22(2)(b) may attach to the person/entity who holds leasehold interest of the property. Section 19-5-22 does not contemplate attaching a lien to state-owned sixteenth section land for the purpose of recouping delinquent garbage fees generated by a lessee.

Regarding the course of action to be taken when the lessee of sixteenth section land has abandoned the leasehold property or refuses to pay, Section 19-5-22 does not contemplate or provide an additional mechanism for recouping funds outside of traditional methods such as filing a lien, withholding a car tag, garnishing wages, and obtaining and enrolling a judgment. *See* Miss. Code Ann. § 19-5-22; MS AG Op., *Abraham* (Sept. 10, 2004); and MS AG Op., *Prichard* (July 10, 1998).

If this office may be of any further assistance to you, please do not hesitate to contact us.

Sincerely,

LYNN FITCH, ATTORNEY GENERAL

By: */s/ Abigail C. Overby*

Abigail C. Overby  
Special Assistant Attorney General

OFFICIAL OPINION