

By: Representatives Flaggs, Masterson

To: Judiciary A

HOUSE BILL NO. 1047

1 AN ACT TO AMEND SECTION 43-37-3, MISSISSIPPI CODE OF 1972, TO  
2 PROVIDE AN ALTERNATIVE PROCEDURE THAT GOVERNMENTAL ENTITIES MAY  
3 FOLLOW IN ACQUIRING REAL PROPERTY FOR A PUBLICLY FUNDED PROJECT;  
4 AND FOR RELATED PURPOSES.

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

6 **SECTION 1.** Section 43-37-3, Mississippi Code of 1972, is  
7 amended as follows:

8 43-37-3. (1) Any person, agency or other entity acquiring  
9 real property for any project or program in which public funds are  
10 used shall comply with the following policies:

11 (a) Every reasonable effort shall be made to acquire  
12 expeditiously real property by negotiation.

13 (b) Real property shall be appraised before the  
14 initiation of negotiations, except that the acquiring person,  
15 agency or other entity may adopt a procedure in compliance with  
16 federal regulations to waive the appraisal in cases involving the  
17 acquisition by sale or donation of property with a low fair market  
18 value. For the purposes of this chapter, property with a low fair  
19 market value is property with a fair market value of Ten Thousand  
20 Dollars (\$10,000.00) or less. The owner or his designated  
21 representative shall be given an opportunity to accompany the  
22 appraiser during his inspection of the property.

23 (c) Before the initiation of negotiations for real  
24 property, an amount shall be established which it is reasonably  
25 believed is just compensation therefor and such amount shall be  
26 offered for the property. In no event shall such amount be less  
27 than the approved appraisal of the fair market value of such  
28 property. Any decrease or increase in the fair market value of

29 real property prior to the date of valuation caused by the public  
30 improvement for which such property is acquired or by the  
31 likelihood that the property would be acquired for such  
32 improvement, other than that due to physical deterioration within  
33 the reasonable control of the owner, will be disregarded in  
34 determining the compensation for the property. The owner of the  
35 real property to be acquired shall be provided with a written  
36 statement of, and summary of the basis for, the amount established  
37 as just compensation. Where appropriate the just compensation for  
38 the real property acquired and for damages to remaining real  
39 property shall be separately stated.

40 (d) No owner shall be required to surrender possession  
41 of real property before the agreed purchase price is paid or there  
42 is deposited with the state court, in accordance with applicable  
43 law, for the benefit of the owner an amount not less than the  
44 approved appraisal of the fair market value of such property, or  
45 the amount of the award of compensation in the condemnation  
46 proceeding of such property.

47 (e) The construction or development of a public  
48 improvement shall be so scheduled that, to the greatest extent  
49 practicable, no person lawfully occupying real property shall be  
50 required to move from a dwelling (assuming a replacement dwelling  
51 will be available) or to move his business or farm operation  
52 without at least ninety (90) days' written notice from the date by  
53 which such move is required.

54 (f) If an owner or tenant is permitted to occupy the  
55 real property acquired on a rental basis for a short term or for a  
56 period subject to termination by the acquiring authority on short  
57 notice, the amount of rent required shall not exceed the fair  
58 rental value of the property to a short-term occupier.

59 (g) In no event shall the time of condemnation be  
60 advanced, or negotiations or condemnation and the deposit of funds  
61 in court for the use of the owner be deferred, or any other

62 coercive action be taken to compel an agreement on the price to be  
63 paid for the property.

64 (h) If an interest in real property is to be acquired  
65 by exercise of power of eminent domain, formal condemnation  
66 proceedings shall be instituted. The acquiring authority shall  
67 not intentionally make it necessary for an owner to institute  
68 legal proceedings to prove the fact of the taking of his real  
69 property.

70 (i) If the acquisition of only part of the property  
71 would leave its owner with an uneconomic remnant, an offer to  
72 acquire that remnant shall be made. For the purposes of this  
73 chapter, an uneconomic remnant is a parcel of real property in  
74 which the owner is left with an interest after the partial  
75 acquisition of the owner's property and which the person, agency  
76 or other entity acquiring the property determines has little or no  
77 value or utility to the owner.

78 (j) A person whose real property is being acquired in  
79 accordance with this chapter may, after the person has been fully  
80 informed of his right to receive just compensation for such  
81 property, donate such property, any part thereof, any interest  
82 therein or any compensation paid therefor to the person, agency or  
83 other entity acquiring the property in such manner as he so  
84 determines.

85 (2) Notwithstanding any other provisions of this section to  
86 the contrary, in the acquisition of real property for a publicly  
87 funded project where the owner of the property has already  
88 determined a sales price of the property and published the price,  
89 the governmental entity may offer either the appraised value of  
90 the property or the published asking price for the property,  
91 whichever is less.

92 **SECTION 2.** This act shall take effect and be in force from  
93 and after July 1, 2004.