

By: Senator(s) Robertson

To: Finance

SENATE BILL NO. 3100

1 AN ACT TO AMEND SECTION 27-35-50, MISSISSIPPI CODE OF 1972,  
2 TO PROVIDE THE MANNER IN WHICH THE APPRAISAL OF AFFORDABLE RENTAL  
3 HOUSING SHALL BE MADE FOR THE PURPOSE OF ARRIVING AT THE TRUE  
4 VALUE OF THE PROPERTY; AND FOR RELATED PURPOSES.

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

6 **SECTION 1.** Section 27-35-50, Mississippi Code of 1972, is  
7 amended as follows:

8 27-35-50. (1) True value shall mean and include, but shall  
9 not be limited to, market value, cash value, actual cash value,  
10 proper value and value for the purposes of appraisal for ad  
11 valorem taxation.

12 (2) With respect to each and every parcel of property  
13 subject to assessment, the tax assessor shall, in ascertaining  
14 true value, consider whenever possible the income capitalization  
15 approach to value, the cost approach to value and the market data  
16 approach to value, as such approaches are determined by the State  
17 Tax Commission. For differing types of categories of property,  
18 differing approaches may be appropriate. The choice of the  
19 particular valuation approach or approaches to be used should be  
20 made by the assessor upon a consideration of the category or  
21 nature of the property, the approaches to value for which the  
22 highest quality data is available, and the current use of the  
23 property.

24 (3) Except as otherwise provided in subsection (4) of this  
25 section, in determining the true value of land and improvements  
26 thereon, factors to be taken into consideration are the proximity  
27 to navigation; to a highway; to a railroad; to a city, town,  
28 village or road; and any other circumstances that tend to affect

29 its value, and not what it might bring at a forced sale but what  
30 the owner would be willing to accept and would expect to receive  
31 for it if he were disposed to sell it to another able and willing  
32 to buy.

33 (4) (a) In arriving at the true value of all Class I and  
34 Class II property and improvements, the appraisal shall be made  
35 according to current use, regardless of location.

36 (b) In arriving at the true value of any land used for  
37 agricultural purposes, the appraisal shall be made according to  
38 its use on January 1 of each year, regardless of its location; in  
39 making the appraisal, the assessor shall use soil types,  
40 productivity and other criteria set forth in the land appraisal  
41 manuals of the State Tax Commission, which criteria shall include,  
42 but not be limited to, an income capitalization approach with a  
43 capitalization rate of not less than ten percent (10%) and a  
44 moving average of not more than ten (10) years. However, for the  
45 year 1990, the moving average shall not be more than five (5)  
46 years; for the year 1991, not more than six (6) years; for the  
47 year 1992, not more than seven (7) years; for the year 1993, not  
48 more than eight (8) years; and for the year 1994, not more than  
49 nine (9) years; and for the year 1990, the variation up or down  
50 from the previous year shall not exceed twenty percent (20%) and  
51 thereafter, the variation, up or down, from a previous year shall  
52 not exceed ten percent (10%). The land shall be deemed to be used  
53 for agricultural purposes when it is devoted to the commercial  
54 production of crops and other commercial products of the soil,  
55 including, but not limited to, the production of fruits and timber  
56 or the raising of livestock and poultry; \* \* \* however, enrollment  
57 in the federal Conservation Reserve Program or in any other United  
58 States Department of Agriculture conservation program shall not  
59 preclude land being deemed to be used for agricultural purposes  
60 solely on the ground that the land is not being devoted to the  
61 production of commercial products of the soil, and income derived

62 from participation in the federal program may be used in  
63 combination with other relevant criteria to determine the true  
64 value of such land. The true value of aquaculture shall be  
65 determined in the same manner as that used to determine the true  
66 value of row crops.

67 (c) In determining the true value based upon current  
68 use, no consideration shall be taken of the prospective value such  
69 property might have if it were put to some other possible use.

70 (d) In arriving at the true value of affordable rental  
71 housing, the assessor shall use the appraisal procedure set forth  
72 in land appraisal manuals of the State Tax Commission. Such  
73 procedure shall prescribe that the appraisal shall be made  
74 according to actual net operating income attributable to the  
75 property, capitalized at a market value capitalization rate  
76 prescribed by the State Tax Commission that reflects the  
77 prevailing cost of capital for commercial real estate in the  
78 geographical market in which the affordable rental housing is  
79 located adjusted for the enhanced risk that any recorded land use  
80 regulation places on the net operating income from the property.  
81 Any tax credits, income generated from tax credits or other  
82 governmental subsidiaries, shall not be considered as income  
83 attributable to the property and shall be exempt from ad valorem  
84 taxation. The owner of affordable rental housing shall provide to  
85 the county tax assessor on or before April 1 of each year, an  
86 accurate statement of the actual net operating income attributable  
87 to the property for the immediately preceding year prepared in  
88 accordance with generally acceptable accounting principles. As  
89 used in this paragraph:

90 (i) "Affordable rental housing" means residential  
91 housing consisting of one or more rental units, the construction  
92 and/or rental of which is subject to Section 42 of the Internal  
93 Revenue Code (26 USC 42), the Home Investment Partnership Program  
94 under the Cranston-Gonzalez National Affordable Housing Act (42

95 USC 12741 et seq.), the Federal Home Loan Banks Affordable Housing  
96 Program established pursuant to the Financial Institutions Reform,  
97 Recovery and Enforcement Act (FIRREA) of 1989 (Public Law 101-73),  
98 or any other federal, state or similar program intended to provide  
99 affordable housing to persons of low or moderate income and the  
100 occupancy and maximum rental rates of such housing are restricted  
101 based on the income of the persons occupying such housing.

102 (ii) "Land use regulation" means a restriction  
103 imposed by an extended low-income housing agreement or other  
104 covenant recorded in the applicable land records or by applicable  
105 law or regulation restricting the maximum income or residents  
106 and/or the maximum rental rate in the affordable rental housing.

107 (5) The true value of each class of property shall be  
108 determined annually.

109 (6) The State Tax Commission shall have the power to adopt,  
110 amend or repeal such rules or regulations in a manner consistent  
111 with the Constitution of the State of Mississippi to implement the  
112 duties assigned to the commission in this section.

113 **SECTION 2.** This act shall be considered declaratory of  
114 existing policy on assessment of real property used for affordable  
115 rental housing under Section 112, Mississippi Constitution of  
116 1890.

117 **SECTION 3.** This act shall take effect and be in force from  
118 and after January 1, 2005.