

By: Representative Baker (74th)

To: Judiciary A

HOUSE BILL NO. 621

1 AN ACT TO AMEND SECTION 43-37-3, MISSISSIPPI CODE OF 1972, TO
2 AUTHORIZE AN OWNER OF REAL PROPERTY THAT IS SOUGHT TO BE ACQUIRED
3 BY A PERSON, AGENCY OR OTHER ENTITY FOR A PUBLICLY FUNDED PROJECT
4 TO WAIVE THE REQUIREMENT FOR AN APPRAISAL OF THE PROPERTY AND SELL
5 THE PROPERTY AT A NEGOTIATED PRICE; AND FOR RELATED PURPOSES.

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

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

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

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

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

26 (c) Unless the owner of real property waives appraisal,
27 before the initiation of negotiations for the property, an amount
28 shall be established which it is reasonably believed is just

29 compensation therefor and such amount shall be offered for the
30 property. In cases in which appraisal of the property is not
31 waived, the amount offered for the property shall be not less than
32 the approved appraisal of the fair market value of such property.
33 Any decrease or increase in the fair market value of real property
34 prior to the date of valuation caused by the public improvement
35 for which such property is acquired or by the likelihood that the
36 property would be acquired for such improvement, other than that
37 due to physical deterioration within the reasonable control of the
38 owner, will be disregarded in determining the compensation for the
39 property. The owner of the real property to be acquired shall be
40 provided with a written statement of, and summary of the basis
41 for, the amount established as just compensation. Where
42 appropriate the just compensation for the real property acquired
43 and for damages to remaining real property shall be separately
44 stated.

45 (d) No owner shall be required to surrender possession
46 of real property before the agreed purchase price is paid or there
47 is deposited with the state court, in accordance with applicable
48 law, for the benefit of the owner an amount not less than the
49 approved appraisal of the fair market value of such property if
50 appraisal of the property has not been waived, or the amount of
51 the award of compensation in the condemnation proceeding of such
52 property.

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

60 (f) If an owner or tenant is permitted to occupy the
61 real property acquired on a rental basis for a short term or for a

62 period subject to termination by the acquiring authority on short
63 notice, the amount of rent required shall not exceed the fair
64 rental value of the property to a short-term occupier.

65 (g) In no event shall the time of condemnation be
66 advanced, or negotiations or condemnation and the deposit of funds
67 in court for the use of the owner be deferred, or any other
68 coercive action be taken to compel an agreement on the price to be
69 paid for the property.

70 (h) If an interest in real property is to be acquired
71 by exercise of power of eminent domain, formal condemnation
72 proceedings shall be instituted. The acquiring authority shall
73 not intentionally make it necessary for an owner to institute
74 legal proceedings to prove the fact of the taking of his real
75 property.

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

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

91 **SECTION 2.** This act shall take effect and be in force from
92 and after July 1, 2006.