

By: Representatives Staples, Fleming

To: Ways and Means

HOUSE BILL NO. 1629

1 AN ACT TO AMEND SECTION 27-35-50, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE THAT THE TRUE VALUE OF AGRICULTURAL LAND THAT IS
3 SUBMERGED FOR MORE THAN SIX MONTHS OF THE YEAR SHALL BE REDUCED
4 PROPORTIONATELY TO REFLECT ITS DEPRECIATED USE VALUE; AND FOR
5 RELATED PURPOSES.

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

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

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

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

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

29 village or road; and any other circumstances that tend to affect
30 its value, and not what it might bring at a forced sale but what
31 the owner would be willing to accept and would expect to receive
32 for it if he were disposed to sell it to another able and willing
33 to buy.

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

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

62 production of commercial products of the soil, and income derived
63 from participation in the federal program may be used in
64 combination with other relevant criteria to determine the true
65 value of such land. The true value of aquaculture shall be
66 determined in the same manner as that used to determine the true
67 value of row crops. The true value of agricultural land that is
68 submerged for more than six (6) months of the year shall be
69 reduced proportionately to reflect its depreciated use value.

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

73 (d) In arriving at the true value of affordable rental
74 housing, the assessor shall use the appraisal procedure set forth
75 in land appraisal manuals of the State Tax Commission. Such
76 procedure shall prescribe that the appraisal shall be made
77 according to actual net operating income attributable to the
78 property, capitalized at a market value capitalization rate
79 prescribed by the State Tax Commission that reflects the
80 prevailing cost of capital for commercial real estate in the
81 geographical market in which the affordable rental housing is
82 located adjusted for the enhanced risk that any recorded land use
83 regulation places on the net operating income from the property.
84 The owner of affordable rental housing shall provide to the county
85 tax assessor on or before April 1 of each year, an accurate
86 statement of the actual net operating income attributable to the
87 property for the immediately preceding year prepared in accordance
88 with generally acceptable accounting principles. As used in this
89 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 of 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 take effect and be in force from
114 and after July 1, 2006.