

By: Representative Upshaw

To: Judiciary A

HOUSE BILL NO. 137

1 AN ACT TO AMEND SECTION 11-27-1, MISSISSIPPI CODE OF 1972, TO
2 PROHIBIT USE OF THE POWER OF EMINENT DOMAIN FOR CERTAIN PRIVATE,
3 NONGOVERNMENTAL PURPOSES; TO PROVIDE EXEMPTIONS; AND FOR RELATED
4 PURPOSES.

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

6 **SECTION 1.** Section 11-27-1, Mississippi Code of 1972, is
7 amended as follows:

8 11-27-1. (1) Any person or corporation having the right to
9 condemn private property for public use shall exercise that right
10 as provided in this chapter, except as elsewhere specifically
11 provided under the laws of the State of Mississippi.

12 (2) Notwithstanding the provisions of this chapter or any
13 other provisions of law to the contrary, the right of eminent
14 domain shall not be exercised for the purposes of converting
15 privately owned real property for retail, office, commercial,
16 industrial or residential development; or primarily for
17 enhancement of tax revenue; or for transfer to a person,
18 nongovernmental entity, public-private partnership, corporation or
19 other business entity. This subsection shall not apply to
20 publicly regulated facilities used to transport or distribute
21 natural gas and electricity or to public utilities or common
22 carriers. This subsection shall apply to governmental entities
23 that lease public property to a private retail, office,
24 commercial, industrial or residential development, a person, a
25 nongovernmental entity, public-private partnership, corporation or
26 other privately owned business.

27 (3) Property condemned pursuant to any provision of law, if
28 not used in thirty (30) years or if not used for the purpose or



29 purposes for which it was condemned or for some other public use,
30 that subsequently is determined to be sold shall be offered first
31 for sale to the person or persons from whom the property was
32 condemned, or to his or her known or ascertainable heirs or
33 assigns, at the price paid for the property together with the fair
34 market value of any improvements thereon, less such amount, if
35 any, as the person or persons from whom the property was condemned
36 shows by good and sufficient documentation to be the amount of
37 income and transaction taxes, if any, actually paid in connection
38 therewith. However, if the offer is not accepted within ninety
39 (90) days from the date it is made, the property may be sold to
40 any other person, but only at public sale after legal notice is
41 given.

42 The provisions of this subsection (3) shall apply to any real
43 property whether condemned before or after the passage of this
44 act.

45 **SECTION 2.** This act shall take effect and be in force from
46 and after its passage.

