

By: Representative Warren

To: Judiciary A

HOUSE BILL NO. 492

1 AN ACT TO AMEND SECTIONS 11-17-35 AND 11-17-37, MISSISSIPPI
2 CODE OF 1972, TO CLARIFY THE JURISDICTION THAT MAY BE EXERCISED BY
3 THE STATE COURTS IN CERTAIN TITLE DISPUTES PENDING THE SETTLEMENT
4 OF A CLAIM OF TITLE IN THE UNITED STATES OF AMERICA AND TO
5 RECOGNIZE THE FUNCTION AND APPLICATION OF FEDERAL LAW; AND FOR
6 RELATED PURPOSES.

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

8 **SECTION 1.** Section 11-17-35, Mississippi Code of 1972, is
9 amended as follows:

10 11-17-35. In * * * suits or other civil actions to confirm
11 or quiet title to real estate, and to cancel and remove clouds
12 therefrom, or declare other rights or interests therein, the * * *
13 plaintiff must * * * file and serve a complaint which meets the
14 pleading requirements of the Mississippi Rules of Civil Procedure
15 that are in effect at the time the civil action is commenced. To
16 establish and prove his case, the plaintiff should deraign title
17 to the real estate in question. If title has passed out of the
18 sovereign more than seventy-five (75) years * * * before the * * *
19 commencement of the * * * action, * * * the deraignment shall be
20 sufficient if it shows title out of the sovereign and a



21 deraignment of title for not less than sixty (60) consecutive
22 years * * * next preceding the * * * commencement of the * * *
23 action. * * * The court may credit evidence of title of
24 reliability substantially equivalent to the reliability of a
25 competent deraignment if the plaintiff provides good and valid
26 reason why he * * * cannot deraign his title. In all such * * *
27 civil actions, the final * * * judgment shall include an
28 appropriate legal description of real estate involved in the civil
29 action and affected by the judgment, and shall be recorded in
30 the * * * land records of the county, or judicial district where
31 appropriate, as maintained by the chancery clerk, and shall be
32 indexed as * * * other instruments of conveyance of * * *
33 land * * *.

34 **SECTION 2.** Section 11-17-37, Mississippi Code of 1972, is
35 amended as follows:

36 11-17-37. (1) In suits or other civil actions to try
37 title, * * * cancel deeds * * * or other clouds upon title, * * *
38 to resolve disputes as to possessory or use rights or interests,
39 including adverse possession, or to confirm or quiet right, title
40 or interests to real estate, the chancery court shall have full
41 jurisdiction to order, adjudge or decree possession * * * or use,
42 or to displace possession or use, and to decree rents and
43 compensation for improvements and taxes. In * * * any such civil
44 action, the jurisdiction of the chancery court shall include the
45 authority to grant preliminary, temporary or permanent relief,



46 including damages and other monetary relief as may be equitable,
47 just and proper under the law and the facts. In all cases of
48 ejectment and other cases where the courts have exercised
49 jurisdiction that is auxiliary, ancillary or pendent to the
50 jurisdiction of circuit courts and other courts of common
51 law, * * * the chancery court may exercise * * *
52 jurisdiction * * *, try cases, and grant or deny the relief sought
53 or otherwise available under the law and the facts, although the
54 legal remedy may not have been exhausted or the legal title
55 established by a suit at law.

56 (2) In suits or other civil actions within the jurisdiction
57 and authority of the chancery court under subsection (1) of this
58 section or otherwise, and subject to subsection (3) of this
59 section, it shall not be a defense or impediment to, or limitation
60 of, the jurisdiction of the chancery court or to the exercise
61 thereof in pre-trial, trial or other proceedings in the civil
62 action, that it may be believed, argued, proved or otherwise
63 suggested that the United States of America may have a right,
64 title or interest in or to the real property, in whole or in part.
65 If a plaintiff or other party should make or plead a claim that
66 may affect a right, title or interest of the United States, the
67 claim or pleading should not be dismissed but, instead, the claim
68 or pleading shall as a matter of law be deemed amended so as to
69 conform to the provisions of this section.



70 (3) Notwithstanding the jurisdiction and authority granted
71 to the chancery court in this section or otherwise, the sovereign
72 immunity of the United States of America shall be respected as
73 provided by the Constitution and laws of the United States,
74 including any limited or conditional waivers of that sovereign
75 immunity. In the exercise of its jurisdiction, the chancery court
76 shall have no authority to enter a preliminary, temporary or
77 permanent order, judgment or decree that may prejudice or
78 otherwise affect any right, title or interest of the United States
79 of America in or to all or any part of the real estate. As a
80 matter of law, any such order, judgment or decree shall not
81 prejudice or affect any right, title or interest of the United
82 States in the property.

83 (4) A final order, judgment or decree entered in a civil
84 action under the jurisdiction set forth in this section shall have
85 force and effect as in other civil actions to the full extent of
86 the laws of this state; however, whether and to what extent the
87 order, judgment or decree may be credited by the United States of
88 America is a function of federal law, including, but not limited
89 to, the Federal Color of Title Act and the implementing
90 regulations of the United States Department of Interior, Bureau of
91 Land Management, and any other laws of the United States and
92 regulations implementing them that may be applicable.

93 **SECTION 3.** This act shall take effect and be in force from
94 and after its passage.

