

By: Representatives Lamar, Corley, Kinkade

To: Ways and Means

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 1456

1 AN ACT TO AMEND SECTION 27-35-50, MISSISSIPPI CODE OF 1972, TO
2 REVISE CERTAIN PROVISIONS REGARDING USE OF AN INCOME CAPITALIZATION
3 APPROACH AS A CRITERIA FOR THE CALCULATION OF TRUE VALUE FOR LAND
4 USED FOR AGRICULTURAL PURPOSES; TO PROVIDE THAT THE FACT THAT LAND
5 IS LEASED FOR HUNTING OR FISHING PURPOSES SHALL NOT PRECLUDE THE
6 LAND FROM BEING DEEMED TO BE USED FOR AGRICULTURAL PURPOSES; TO
7 PROVIDE THAT INCOME DERIVED FROM A HUNTING OR FISHING LEASE MAY BE
8 USED IN COMBINATION WITH OTHER RELEVANT CRITERIA TO DETERMINE THE
9 TRUE VALUE OF LAND; AND FOR RELATED PURPOSES.

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

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

13 27-35-50. (1) True value shall mean and include, but shall
14 not be limited to, market value, cash value, actual cash value,
15 proper value and value for the purposes of appraisal for ad
16 valorem taxation.

17 (2) With respect to each and every parcel of property
18 subject to assessment, the tax assessor shall, in ascertaining
19 true value, consider whenever possible the income capitalization
20 approach to value, the cost approach to value and the market data
21 approach to value, as such approaches are determined by the



22 Department of Revenue. For differing types of categories of
23 property, differing approaches may be appropriate. The choice of
24 the particular valuation approach or approaches to be used should
25 be made by the assessor upon a consideration of the category or
26 nature of the property, the approaches to value for which the
27 highest quality data is available, and the current use of the
28 property.

29 (3) Except as otherwise provided in subsection (4) of this
30 section, in determining the true value of land and improvements
31 thereon, factors to be taken into consideration are the proximity
32 to navigation; to a highway; to a railroad; to a city, town,
33 village or road; and any other circumstances that tend to affect
34 its value, and not what it might bring at a forced sale but what
35 the owner would be willing to accept and would expect to receive
36 for it if he were disposed to sell it to another able and willing
37 to buy.

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

41 (b) In arriving at the true value of any land used for
42 agricultural purposes, the appraisal shall be made according to
43 its use on January 1 of each year, regardless of its location; in
44 making the appraisal, the assessor shall use soil types,
45 productivity and other criteria set forth in the land appraisal
46 manuals of the Department of Revenue, which criteria shall



47 include, but not be limited to, an income capitalization approach
48 with a capitalization rate of not less than ten percent (10%) and
49 a moving average of not more than ten (10) years through the year
50 2020, and for the year 2021 and thereafter, with a capitalization
51 rate of not less than twelve percent (12%) and a moving average of
52 not more than ten (10) years for land devoted to the production of
53 timber and a moving average for all other land as follows: for
54 the year 2021, four (4) years; for the year 2022, five (5) years;
55 for the year 2023, six (6) years; for the year 2024, seven (7)
56 years; for the year 2025, eight (8) years; for the year 2026, nine
57 (9) years; and for the year 2027 and thereafter, ten (10) years.
58 However, for the year 1990, the moving average shall not be more
59 than five (5) years; for the year 1991, not more than six (6)
60 years; for the year 1992, not more than seven (7) years; for the
61 year 1993, not more than eight (8) years; and for the year 1994,
62 not more than nine (9) years; and for the year 1990, the variation
63 up or down from the previous year shall not exceed twenty percent
64 (20%) and thereafter, the variation, up or down, from a previous
65 year shall not exceed ten percent (10%) through the year 2018; and
66 for the year 2019 and thereafter, the variation, up or down, from
67 a previous year shall not exceed four percent (4%). The land
68 shall be deemed to be used for agricultural purposes when it is
69 devoted to the commercial production of crops and other commercial
70 products of the soil, including, but not limited to, the
71 production of fruits and timber or the raising of livestock and



72 poultry; however, enrollment in the federal Conservation Reserve
73 Program or in any other United States Department of Agriculture
74 conservation program or the fact that the land is leased for
75 hunting or fishing purposes shall not preclude land being deemed
76 to be used for agricultural purposes solely on the ground that the
77 land is not being devoted to the production of commercial products
78 of the soil, and income derived from participation in the federal
79 program or income derived from a hunting or fishing lease may be
80 used in combination with other relevant criteria to determine the
81 true value of such land. The true value of aquaculture shall be
82 determined in the same manner as that used to determine the true
83 value of row crops.

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

87 (d) In arriving at the true value of affordable rental
88 housing, the assessor shall use the appraisal procedure set forth
89 in land appraisal manuals of the Department of Revenue. Such
90 procedure shall prescribe that the appraisal shall be made
91 according to actual net operating income attributable to the
92 property, capitalized at a market value capitalization rate
93 prescribed by the Department of Revenue that reflects the
94 prevailing cost of capital for commercial real estate in the
95 geographical market in which the affordable rental housing is
96 located adjusted for the enhanced risk that any recorded land use



97 regulation places on the net operating income from the property.
98 The owner of affordable rental housing shall provide to the county
99 tax assessor on or before April 1 of each year, an accurate
100 statement of the actual net operating income attributable to the
101 property for the immediately preceding year prepared in accordance
102 with generally acceptable accounting principles. As used in this
103 paragraph:

104 (i) "Affordable rental housing" means residential
105 housing consisting of one or more rental units, the construction
106 and/or rental of which is subject to Section 42 of the Internal
107 Revenue Code (26 USC 42), the Home Investment Partnership Program
108 under the Cranston-Gonzalez National Affordable Housing Act (42
109 USC 12741 et seq.), the Federal Home Loan Banks Affordable Housing
110 Program established pursuant to the Financial Institutions Reform,
111 Recovery and Enforcement Act (FIRREA) of 1989 (Public Law 101-73),
112 or any other federal, state or similar program intended to provide
113 affordable housing to persons of low or moderate income and the
114 occupancy and maximum rental rates of such housing are restricted
115 based on the income of the persons occupying such housing.

116 (ii) "Land use regulation" means a restriction
117 imposed by an extended low-income housing agreement or other
118 covenant recorded in the applicable land records or by applicable
119 law or regulation restricting the maximum income of residents
120 and/or the maximum rental rate in the affordable rental housing.



121 (e) In arriving at the true value of ground leases on
122 real property leased by the Mississippi State Port at Gulfport,
123 the assessor shall use the appraisal procedure set forth in land
124 appraisal manuals of the Department of Revenue. Such procedure
125 shall prescribe that the appraisal shall be made according to
126 actual net ground rent attributable to the leased premises,
127 capitalized at a market value capitalization rate prescribed by
128 the Department of Revenue that reflects the prevailing cost of
129 capital of commercial real estate in the geographical market in
130 which the Mississippi State Port at Gulfport is located. As used
131 in this paragraph (e):

132 (i) "Ground leases" means those leases of land
133 where the Mississippi State Port at Gulfport is the landlord and a
134 person or business entity is the tenant.

135 (ii) "Ground rent" means the rent paid to the
136 Mississippi State Port at Gulfport in a set amount for a specific
137 length of tenancy where the amount of rent may be adjusted from
138 time to time based upon market indices, such as the consumer price
139 index. Ground rent does not include percentage rent and rent
140 based on improvements or any other type of rental payment.

141 (iii) "Percentage rent" means the rent paid to the
142 Mississippi State Port at Gulfport that is calculated based upon
143 revenue generated by the tenant by virtue of the ground lease.

144 (iv) "Rent based on improvements" means the rent
145 paid to the Mississippi State Port at Gulfport that is calculated



146 based upon investments in improvements to the leased premises made
147 by tenant.

148 (5) The true value of each class of property shall be
149 determined annually.

150 (6) The Department of Revenue shall have the power to adopt,
151 amend or repeal such rules or regulations in a manner consistent
152 with the Constitution of the State of Mississippi to implement the
153 duties assigned to the department in this section.

154 **SECTION 2.** This act shall take effect and be in force from
155 and after July 1, 2019.

