

By: Senator(s) Hill

To: Judiciary, Division A

SENATE BILL NO. 2085

1 AN ACT TO PROVIDE THAT THE OWNER OF A BUSINESS CONDUCTED ON A
 2 PROPERTY TAKEN UNDER THE POWER OF EMINENT DOMAIN SHALL BE
 3 COMPENSATED FOR THE LOSS OF GOODWILL UNDER CERTAIN CONDITIONS; TO
 4 PROVIDE THAT ANY OWNER OF A BUSINESS WHO IS COMPENSATED UNDER THIS
 5 ACT SHALL CONFIDENTIALLY PROVIDE A COURT WITH THE STATE TAX
 6 RETURNS OF THE BUSINESS IN ORDER TO DETERMINE THE AMOUNT OF
 7 COMPENSATION UNDER THIS ACT; AND FOR RELATED PURPOSES.

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

9 **SECTION 1.** (1) The owner of a business conducted on the
 10 property, or on the remainder if the property is part of a larger
 11 parcel, taken under the power of eminent domain shall be
 12 compensated for loss of goodwill if the owner proves all of the
 13 following:

14 (a) The loss is caused by the taking of the property or
 15 the injury to the remainder;

16 (b) The loss cannot reasonably be prevented by a
 17 relocation of the business or by taking steps and adopting
 18 procedures that a reasonably prudent person would take and adopt
 19 in preserving the goodwill; and



20 (c) Compensation for the loss will not be duplicated in
21 the compensation otherwise awarded to the owner from any other
22 public or private source.

23 (2) Nothing in this act authorizes compensation for inverse
24 condemnation claims for temporary interference with or
25 interruption of business.

26 (3) As used in this act, "goodwill" means the benefits that
27 accrue to a business as a result of its location, reputation for
28 dependability, skill or quality, and any other circumstances
29 resulting in probable retention of old or acquisition of new
30 patronage.

31 **SECTION 2.** The owner of a business who claims compensation
32 under this act shall make available to the court, and the court
33 shall, upon such terms and conditions as will preserve their
34 confidentiality, make available to the plaintiff, the state tax
35 returns of the business for audit for confidential use solely for
36 the purpose of determining the amount of compensation under this
37 act. Nothing in this section affects any right a party may
38 otherwise have to discovery or to require the production of
39 documents, papers, books and accounts.

40 **SECTION 3.** This act shall take effect and be in force from
41 and after July 1, 2023.

