

By: Senator(s) Harkins

To: Finance

SENATE BILL NO. 3166

1 AN ACT TO AMEND SECTION 27-35-50, MISSISSIPPI CODE OF 1972,
2 TO DIRECT THE DEPARTMENT OF REVENUE, WHEN PROMULGATING ITS ANNUAL
3 TABLE OF INFLATION FACTORS FOR INDUSTRIAL PROPERTY, TO INCLUDE
4 COMMERCIAL SOLAR AND WIND FACILITIES AS A SEPARATE CATEGORY OF
5 INDUSTRIAL PROPERTY; TO PROVIDE THAT, IF MARSHALL VALUATION
6 SERVICE HAS NOT PROVIDED AN INFLATION FACTOR FOR COMMERCIAL SOLAR
7 AND WIND FACILITIES FOR A PARTICULAR YEAR, THE DEPARTMENT SHALL
8 SET SUCH INFLATION FACTOR AT 1.000; AND FOR RELATED PURPOSES.

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

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

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

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



property, differing approaches may be appropriate. The choice of the particular valuation approach or approaches to be used should be made by the assessor upon a consideration of the category or nature of the property, the approaches to value for which the highest quality data is available, and the current use of the property.

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

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

(b) In arriving at the true value of any land used for agricultural purposes, the appraisal shall be made according to its use on January 1 of each year, regardless of its location; in making the appraisal, the assessor shall use soil types, productivity and other criteria set forth in the land appraisal manuals of the Department of Revenue, which criteria shall include, but not be limited to, an income capitalization approach



47 with a capitalization rate of not less than ten percent (10%) and
48 a moving average of not more than ten (10) years; however, for the
49 year 2022 and thereafter, the moving average for such land, except
50 land devoted to the production of timber, shall be as follows:
51 for the year 2022, four (4) years; for the year 2023, five (5)
52 years; for the year 2024, six (6) years; for the year 2025, seven
53 (7) years; for the year 2026, eight (8) years; for the year 2027,
54 nine (9) years; and for the year 2028 and thereafter, ten (10)
55 years. However, for the year 1990, the moving average shall not
56 be more than five (5) years; for the year 1991, not more than six
57 (6) years; for the year 1992, not more than seven (7) years; for
58 the year 1993, not more than eight (8) years; and for the year
59 1994, not more than nine (9) years; and for the year 1990, the
60 variation up or down from the previous year shall not exceed
61 twenty percent (20%) and thereafter, the variation, up or down,
62 from a previous year shall not exceed ten percent (10%) through
63 the year 2018; and for the year 2019 and thereafter, the
64 variation, up or down, from a previous year shall not exceed four
65 percent (4%). Government payments and crop insurance indemnities
66 shall not be included in determining the true value of such land,
67 and a charge for management of each crop equal to twenty-five
68 percent (25%) of the sum of a crop's estimated variable cost,
69 machinery ownership cost, and general farm overhead cost, shall be
70 deducted in determining the true value of such land. The land
71 shall be deemed to be used for agricultural purposes when it is



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

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

90 (d) In arriving at the true value of affordable rental
91 housing, the assessor shall use the appraisal procedure set forth
92 in land appraisal manuals of the Department of Revenue. Such
93 procedure shall prescribe that the appraisal shall be made
94 according to actual net operating income attributable to the
95 property, capitalized at a market value capitalization rate
96 prescribed by the Department of Revenue that reflects the



97 prevailing cost of capital for commercial real estate in the
98 geographical market in which the affordable rental housing is
99 located adjusted for the enhanced risk that any recorded land use
100 regulation places on the net operating income from the property.
101 The owner of affordable rental housing shall provide to the county
102 tax assessor on or before April 1 of each year, an accurate
103 statement of the actual net operating income attributable to the
104 property for the immediately preceding year prepared in accordance
105 with generally acceptable accounting principles. As used in this
106 paragraph:

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

119 (ii) "Land use regulation" means a restriction
120 imposed by an extended low-income housing agreement or other
121 covenant recorded in the applicable land records or by applicable



122 law or regulation restricting the maximum income of residents
123 and/or the maximum rental rate in the affordable rental housing.

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

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

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

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



(iv) "Rent based on improvements" means the rent paid to the Mississippi State Port at Gulfport that is calculated based upon investments in improvements to the leased premises made by tenant.

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

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

(7) When promulgating its annual table of inflation factors for industrial property, the Department of Revenue shall include commercial solar and wind facilities as a separate category of industrial property. If Marshall Valuation Service has not provided an inflation factor for commercial solar and wind facilities for a particular year, the department shall set such inflation factor at 1.000.

SECTION 2. This act shall take effect and be in force from and after July 1, 2025.

