

By: Representative Banks

To: Judiciary A

HOUSE BILL NO. 1251

1 AN ACT TO AMEND SECTIONS 11-27-19 AND 11-27-85, MISSISSIPPI
2 CODE OF 1972, TO PROVIDE THAT IN EMINENT DOMAIN PROCEEDINGS WHEN
3 PROPERTY IS TAKEN AND IS TO BE SUBSEQUENTLY LEASED, THE DEFENDANT
4 SHALL BE THE FIRST PARTY TO WHOM A LEASE SHALL BE OFFERED; AND FOR
5 RELATED PURPOSES.

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

7 **SECTION 1.** Section 11-27-19, Mississippi Code of 1972, is
8 amended as follows:

9 11-27-19. Evidence may be introduced by either party, and
10 the jury may, in the sound discretion of the judge, go to the
11 premises, under the charge of the court as to conduct,
12 conversation and actions as may be proper in the premises.
13 Evidence of fair market value shall be established as of the date
14 of the filing of the complaint. Any judgment finally entered in
15 payment for property to be taken shall provide legal interest on
16 the award of the jury from the date of the filing of the complaint
17 until payment is actually made; provided, however, that interest
18 need not be paid on any funds deposited by the plaintiff and
19 withdrawn by the defendants prior to judgment. Such judgment
20 shall provide that if the property is to be leased, the defendant
21 shall be the first party to whom a lease shall be offered. At the
22 conclusion of the trial, the court shall instruct the jury in
23 accordance with the Mississippi Rules of Civil Procedure.

24 **SECTION 2.** Section 11-27-85, Mississippi Code of 1972, is
25 amended as follows:

26 11-27-85. (1) Upon the filing of the report of the
27 appraiser, the clerk shall within three (3) days mail notice to
28 the parties and the court that the report has been filed. The



29 court shall review the report of the appraiser and shall, after
30 not less than five (5) days' notice thereof to the defendants,
31 enter an order granting to the plaintiff title to the property,
32 less and except all oil, gas and other minerals which may be
33 produced through a well bore, and the right to immediate entry
34 unless, for other cause shown or for uncertainty concerning the
35 immediate public need for such property pursuant to Section
36 11-27-83, the judge shall determine that such passing of title,
37 and right of entry should be denied. Such order shall also
38 provide that if the property is to be leased, the defendant shall
39 be the first party to whom a lease shall be offered. However, no
40 person lawfully occupying real property shall be required to move
41 from a dwelling or to move his business or farm operation without
42 at least ninety (90) days' written notice prior to the date by
43 which such move is required.

44 (2) Upon entry of said order, the plaintiff may deposit not
45 less than eighty-five percent (85%) of the amount of the
46 compensation and damages as determined by the appraiser with the
47 clerk of the court, and upon so doing, the plaintiff shall be
48 granted title to the property, less and except all oil, gas and
49 other minerals which may be produced through a well bore, and
50 shall have the right to immediate entry to said property. The
51 defendant, or defendants, shall be entitled to receive the amount
52 so paid to the clerk of the court, which shall be disbursed as
53 their interest may appear, pursuant to order of the court.

54 (3) Notwithstanding any provisions of subsections (1) and
55 (2) of this section to the contrary, title and immediate
56 possession to real property, including oil, gas and other mineral
57 interests, may be granted under this section to (a) any county
58 authorized to exercise the power of eminent domain under Section
59 19-7-41 for the purpose of acquiring land for construction of a
60 federal correctional facility or other federal penal institution,
61 and (b) the Mississippi Major Economic Impact Authority for the



62 purpose of acquiring land, property and rights-of-way for a
63 project as defined in Section 57-75-5(f)(iv)1 and any facility
64 related to such project.

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

