

By: Senator(s) Dearing

To: Highways and
Transportation

SENATE BILL NO. 2102

1 AN ACT TO AMEND SECTION 65-1-123, MISSISSIPPI CODE OF 1972,
2 TO AUTHORIZE THE MISSISSIPPI TRANSPORTATION COMMISSION TO ADOPT
3 RULES AND REGULATIONS REGARDING THE MANAGEMENT, SALE OR DISPOSAL
4 OF TIMBER ON HIGHWAY RIGHTS-OF-WAY; AND FOR RELATED PURPOSES.

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

6 **SECTION 1.** Section 65-1-123, Mississippi Code of 1972, is
7 amended as follows:

8 65-1-123. (1) Except as otherwise provided in subsection
9 (10) of this section, whenever any personal property has been
10 acquired in any manner by the Mississippi Transportation
11 Commission for public use and in the opinion of the commission,
12 all or any part of the property becomes unnecessary for public
13 use, the commission is authorized to dispose of such property for
14 a fair and reasonable cash market price. Any such sale shall be a
15 sale upon the receipt of sealed bids after reasonable
16 advertisement for bids in such manner and at such time and place
17 as the commission may deem proper and advisable, except that the
18 commission may sell at private sale any such personal property not
19 necessary for public purposes the cash market value of which is
20 less than Five Hundred Dollars (\$500.00); however, if the personal
21 property is timber, the commission may sell at private sale any
22 such timber not necessary for public purposes the cash market
23 value of which is less than Five Thousand Dollars (\$5,000.00),
24 except that whenever persons, groups or agencies are permitted to
25 remove a quantity of timber from highway rights-of-way, and the
26 cash market value of the timber is estimated by the commission to
27 be less than One Thousand Dollars (\$1,000.00), it shall not be
28 necessary to have the timber cruised or appraised and the



29 commission may sell the timber at private sale. The commission
30 shall have the right to reject any and all bids in its discretion
31 and to sell the property theretofore advertised at private sale
32 for not less than the highest of the rejected bids, or to
33 readvertise.

34 (2) Except as otherwise provided in subsections (3) and (4)
35 of this section, whenever real property, with the exception of
36 easements for highway purposes, has been acquired by the
37 Mississippi Transportation Commission, in any manner, for public
38 use and in the opinion of the commission all or any part thereof
39 becomes unnecessary for public use, the same shall be declared on
40 the minutes of the commission as excess property and shall be sold
41 at private sale at market value. If the excess property was a
42 total take from the original owner, then the commission shall
43 offer to such owner, in writing, the first right of refusal to
44 purchase such excess property; however, if after due diligence the
45 original owner cannot be located, then the commission shall offer
46 the first right of refusal to purchase the property to the
47 adjoining property owner or owners. If the excess property was a
48 partial take from the current owner of the parcel of real property
49 from which the excess property was originally taken, then the
50 commission shall be required to offer in writing the first right
51 of refusal to purchase such excess property to such owner. If
52 within forty-five (45) days any owner to whom the commission has
53 offered the first right of refusal under the provisions of this
54 subsection fails to accept the offer to purchase, the property
55 shall then be offered to the adjoining property owner or owners.
56 If within forty-five (45) days an adjoining property owner fails
57 to accept the offer to purchase, then the excess property shall be
58 sold to the highest bidder upon the receipt by the commission of
59 sealed bids after reasonable advertisement for bids in such manner
60 and at such time and place as the commission deems proper and
61 advisable; however, the commission shall have the right to reject



any and all bids in its discretion and to sell the property theretofore advertised at private sale for not less than the highest of the rejected bids, or to readvertise. Upon payment of the purchase price, the executive director of the department, upon due authorization by the commission entered on its minutes, may execute a quitclaim deed conveying such property to the purchaser.

(3) Whenever the commission acquires by fee simple interest any property determined to be an uneconomic remnant outside the right-of-way, then the commission may sell the property to the adjoining property owner or owners for an amount not less than the market value established by the county tax assessor or a state licensed or certified appraiser.

(4) Whenever the commission desires to sell any real property used as maintenance lots, the property shall be sold to the highest bidder upon the receipt by the commission of sealed bids and after reasonable advertisement for bids in such manner and at such time and place as the commission deems proper and advisable; however, the commission, in its discretion, may reject any and all bids and sell the property advertised at private sale for not less than the highest of the rejected bids, or may readvertise. Upon payment of the purchase price, the executive director of the department, upon authorization by the commission entered on its minutes, may execute a quitclaim deed conveying the property to the purchaser.

(5) All easements for highway purposes shall be released when they are determined on the minutes of the commission as no longer needed for such purposes, and when released, they shall be filed by the department in the office of the chancery clerk in the county where the property is located.

(6) In no instance shall any part of any property acquired by the commission, or any interest acquired in such property, including, but not limited to, easements, be construed as abandoned by nonuse, nor shall any encroachment on such property



for any length of time constitute estoppel or adverse possession against the state's interests.

(7) It is the intent of the Legislature that the Transportation Commission shall declare property it has acquired and which is no longer needed for public purposes as excess and to sell and/or dispose of such excess property in accordance with the provisions of this section as soon as practicable after such property becomes excess in fact. Unnecessary or excess property or property interests shall be disposed of only upon order of the Transportation Commission on its minutes as provided in this section.

(8) Whenever any real property has been acquired by the Transportation Commission and in the opinion of the commission all or any part of the property will not be utilized in the near future, the property shall be so declared by the Transportation Commission on its minutes and the commission may lease or rent the property for its market value.

(9) This section shall not apply to any sale, donation, exchange or other conveyance of real property when the Legislature otherwise expressly authorizes or directs the commission to sell, donate, exchange or otherwise convey specifically described real property.

(10) The Mississippi Transportation Commission may adopt such rules and regulations with regard to the management, sale or disposal of timber on highway rights-of-way as it considers appropriate; provided, however, such rules and regulations shall be uniform throughout the state and shall be designed to maximize the value of such timber or minimize the cost of removing such timber.

SECTION 2. This act shall take effect and be in force from and after July 1, 2003.

