

By: Representative Baker (74th)

To: Judiciary A

HOUSE BILL NO. 436

1 AN ACT TO AMEND SECTION 43-37-3, MISSISSIPPI CODE OF 1972, TO  
2 AUTHORIZE AN OWNER OF REAL PROPERTY THAT IS SOUGHT TO BE ACQUIRED  
3 BY A PERSON, AGENCY OR OTHER ENTITY FOR A PUBLICLY FUNDED PROJECT  
4 TO WAIVE THE REQUIREMENT FOR AN APPRAISAL OF THE PROPERTY AND SELL  
5 THE PROPERTY AT A NEGOTIATED PRICE; AND FOR RELATED PURPOSES.

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

7 **SECTION 1.** Section 43-37-3, Mississippi Code of 1972, is  
8 amended as follows:

9 43-37-3. Any person, agency or other entity acquiring real  
10 property for any project or program in which public funds are used  
11 shall comply with the following policies:

12 (a) Every reasonable effort shall be made to acquire  
13 expeditiously real property by negotiation.

14 (b) Real property shall be appraised before the  
15 initiation of negotiations, except that: (i) the owner of the  
16 property may waive the requirement for appraisal; and (ii) the  
17 acquiring person, agency or other entity may adopt a procedure in  
18 compliance with federal regulations to waive the appraisal in  
19 cases involving the acquisition by sale or donation of property  
20 with a low fair market value. For the purposes of this chapter,  
21 property with a low fair market value is property with a fair  
22 market value of Ten Thousand Dollars (\$10,000.00) or less. If the  
23 property is to be appraised, the owner or his designated  
24 representative shall be given an opportunity to accompany the  
25 appraiser during his inspection of the property.

26 (c) Unless the owner of real property waives appraisal,  
27 before the initiation of negotiations for the property, an amount  
28 shall be established which it is reasonably believed is just

29 compensation therefor and such amount shall be offered for the  
30 property. In cases in which appraisal of the property is not  
31 waived, the amount offered for the property shall be not less than  
32 the approved appraisal of the fair market value of such property.  
33 Any decrease or increase in the fair market value of real property  
34 prior to the date of valuation caused by the public improvement  
35 for which such property is acquired or by the likelihood that the  
36 property would be acquired for such improvement, other than that  
37 due to physical deterioration within the reasonable control of the  
38 owner, will be disregarded in determining the compensation for the  
39 property. The owner of the real property to be acquired shall be  
40 provided with a written statement of, and summary of the basis  
41 for, the amount established as just compensation. Where  
42 appropriate the just compensation for the real property acquired  
43 and for damages to remaining real property shall be separately  
44 stated.

45 (d) No owner shall be required to surrender possession  
46 of real property before the agreed purchase price is paid or there  
47 is deposited with the state court, in accordance with applicable  
48 law, for the benefit of the owner an amount not less than the  
49 approved appraisal of the fair market value of such property if  
50 appraisal of the property has not been waived, or the amount of  
51 the award of compensation in the condemnation proceeding of such  
52 property.

53 (e) The construction or development of a public  
54 improvement shall be so scheduled that, to the greatest extent  
55 practicable, no person lawfully occupying real property shall be  
56 required to move from a dwelling (assuming a replacement dwelling  
57 will be available) or to move his business or farm operation  
58 without at least ninety (90) days' written notice from the date by  
59 which such move is required.

60 (f) If an owner or tenant is permitted to occupy the  
61 real property acquired on a rental basis for a short term or for a

62 period subject to termination by the acquiring authority on short  
63 notice, the amount of rent required shall not exceed the fair  
64 rental value of the property to a short-term occupier.

65 (g) In no event shall the time of condemnation be  
66 advanced, or negotiations or condemnation and the deposit of funds  
67 in court for the use of the owner be deferred, or any other  
68 coercive action be taken to compel an agreement on the price to be  
69 paid for the property.

70 (h) If an interest in real property is to be acquired  
71 by exercise of power of eminent domain, formal condemnation  
72 proceedings shall be instituted. The acquiring authority shall  
73 not intentionally make it necessary for an owner to institute  
74 legal proceedings to prove the fact of the taking of his real  
75 property.

76 (i) If the acquisition of only part of the property  
77 would leave its owner with an uneconomic remnant, an offer to  
78 acquire that remnant shall be made. For the purposes of this  
79 chapter, an uneconomic remnant is a parcel of real property in  
80 which the owner is left with an interest after the partial  
81 acquisition of the owner's property and which the person, agency  
82 or other entity acquiring the property determines has little or no  
83 value or utility to the owner.

84 (j) A person whose real property is being acquired in  
85 accordance with this chapter may, after the person has been fully  
86 informed of his right to receive just compensation for such  
87 property, donate such property, any part thereof, any interest  
88 therein or any compensation paid therefor to the person, agency or  
89 other entity acquiring the property in such manner as he so  
90 determines.

91 **SECTION 2.** This act shall take effect and be in force from  
92 and after July 1, 2005.