

By: Representative Malone

To: Public Property;
Corrections

HOUSE BILL NO. 621

1 AN ACT TO AMEND SECTION 47-5-66, MISSISSIPPI CODE OF 1972, TO
2 AUTHORIZE THE STATE DEPARTMENT OF FINANCE AND ADMINISTRATION TO
3 HOLD AUCTIONS FOR AGRICULTURAL LEASES TO PRIVATE ENTITIES; AND FOR
4 RELATED PURPOSES.

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

6 **SECTION 1.** Section 47-5-66, Mississippi Code of 1972, is
7 amended as follows:

8 47-5-66. (1) It shall be the duty of the State Department
9 of Finance and Administration, with the approval of the Public
10 Procurement Review Board, to lease lands at public contract upon
11 the submission of two (2) or more sealed bids to the State
12 Department of Finance and Administration after having advertised
13 the land for rent in newspapers of general circulation published
14 in Jackson, Mississippi; Memphis, Tennessee; the county in which
15 the land is located; and contiguous counties for a period of not
16 less than two (2) successive weeks. The first publication shall
17 be made not less than ten (10) days before the date of the public
18 contract, and the last publication shall be made not more than
19 seven (7) days before that date. The State Department of Finance
20 and Administration may reject any and all bids. Bids received in
21 response to the advertisement shall be opened at the State
22 Department of Finance and Administration. The State Department of
23 Finance and Administration may reject all bids or accept the
24 highest and best bid received in response to the advertisement, or
25 the State Department of Finance and Administration may hold an
26 auction among those who submitted bids in response to the
27 advertisement. If the State Department of Finance and
28 Administration elects to hold an auction, no bidder shall be

29 granted any preference. The opening bid at the auction shall be
30 the highest bid received in response to the advertisement. If the
31 State Department of Finance and Administration receives an
32 acceptable bid in response to the advertisement and elects not to
33 hold an auction among those submitting bids, then the holder of
34 the existing lease may submit a second bid in an amount not less
35 than one hundred five percent (105%) of the highest acceptable bid
36 received if the holder of the existing lease: (a) submitted a bid
37 in response to the advertisement, and (b) constructed or made
38 improvements on the leasehold premises after receiving approval of
39 the State Department of Finance and Administration during the term
40 of the existing lease. For purposes of this subsection, the term
41 improvements shall not include any work or items that are done
42 customarily on an annual basis in the preparing, planting,
43 growing, cultivating or harvesting of crops or other farm
44 products. Successful bidders shall take possession of their
45 leaseholds at the time authorized by the State Department of
46 Finance and Administration. However, rent shall be due no later
47 than the day upon which the lessee shall assume possession of the
48 leasehold, and shall be due on the anniversary date for each
49 following year of the lease. The State Department of Finance and
50 Administration may provide in any lease that rent shall be paid in
51 full in advance or paid in installments, as may be necessary or
52 appropriate. In addition, the State Department of Finance and
53 Administration may accept, and the lease may provide for,
54 assignments of federal, state, or other agricultural support
55 payments, growing crops or the proceeds from the sale thereof,
56 promissory notes, or any other good and valuable consideration
57 offered by any lessee to meet the rent requirements of the lease.
58 If a promissory note is offered by a lessee, it shall be secured
59 by a first lien on the crop of the lessee, or the proceeds from
60 the sale thereof. The lien shall be filed pursuant to Article 9
61 of the Mississippi Uniform Commercial Code and Section 1324 of the

62 Food Security Act of 1985, as enacted or amended. If the note is
63 not paid at maturity, it shall bear interest at the rate provided
64 for judgments and decrees in Section 75-17-7 from its maturity
65 date until the note is paid. The note shall provide for the
66 payment of all costs of collection and reasonable attorney's fees
67 if default is made in the payment of the note. The payment of
68 rent by promissory note or any means other than cash in advance
69 shall be subject to the approval of the Public Procurement Review
70 Board, which shall place the approval of record in the minutes of
71 the board. There is created a special fund to be designated as
72 the "Prison Agricultural Enterprises Fund." Any monies in hand or
73 due from the leasing of Penitentiary lands and the sales of timber
74 as provided in Section 47-5-56 and earmarked for the Prison
75 Industries Fund shall be deposited to the special fund for prison
76 agricultural enterprises. All monies in each fiscal year derived
77 from the leasing of the Penitentiary lands and the sales of timber
78 as provided in Section 47-5-56 shall be deposited into the special
79 fund for the purpose of conducting, operating and managing the
80 prison agricultural enterprises of the department. All profits
81 derived from the prison agricultural enterprises shall be
82 deposited into the Prison Agricultural Enterprises Fund. All
83 profits derived from prison industries shall be placed in a
84 special fund in the State Treasury to be known as the "Prison
85 Industries Fund," to be appropriated each year by the Legislature
86 to the nonprofit corporation, which is required to be organized
87 under the provisions of Section 47-5-535, for the purpose of
88 operating and managing the prison industries. The state shall
89 have the rights and remedies for the security and collection of
90 the rents given by law to landlords. Upon the execution of the
91 agricultural leases to private entities as authorized by Section
92 47-5-64, the leased land shall be liable to be taxed as other
93 lands are taxed during the continuance of the lease, but in case
94 of sale thereon for taxes, only the title of the leaseholder or

95 his heirs or assigns shall pass by the sale. Any funds obtained
96 by the corporation as a result of sale of goods and services
97 manufactured and provided by it shall be accounted for separate
98 and apart from any funds received by the corporation through
99 appropriation from the State Legislature. All nonappropriated
100 funds generated by the corporation shall not be subject to
101 appropriation by the State Legislature.

102 (2) This section shall be repealed from and after July 1,
103 2006.

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