

By: Senator(s) Robertson

To: Finance

SENATE BILL NO. 3007

1 AN ACT TO AMEND SECTION 27-35-50, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE THE MANNER IN WHICH THE APPRAISAL OF AFFORDABLE
3 MULTIFAMILY HOUSING SHALL BE MADE FOR THE PURPOSE OF ARRIVING AT
4 THE TRUE VALUE OF THE PROPERTY; AND FOR RELATED PURPOSES.

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

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

8 27-35-50. (1) True value shall mean and include, but shall
9 not be limited to, market value, cash value, actual cash value,
10 proper value and value for the purposes of appraisal for ad
11 valorem taxation.

12 (2) With respect to each and every parcel of property
13 subject to assessment, the tax assessor shall, in ascertaining
14 true value, consider whenever possible the income capitalization
15 approach to value, the cost approach to value and the market data
16 approach to value, as such approaches are determined by the State
17 Tax Commission. For differing types of categories of property,
18 differing approaches may be appropriate. The choice of the
19 particular valuation approach or approaches to be used should be
20 made by the assessor upon a consideration of the category or
21 nature of the property, the approaches to value for which the
22 highest quality data is available, and the current use of the
23 property.

24 (3) Except as otherwise provided in subsection (4) of this
25 section, in determining the true value of land and improvements
26 thereon, factors to be taken into consideration are the proximity
27 to navigation; to a highway; to a railroad; to a city, town,
28 village or road; and any other circumstances that tend to affect

29 its value, and not what it might bring at a forced sale but what
30 the owner would be willing to accept and would expect to receive
31 for it if he were disposed to sell it to another able and willing
32 to buy.

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

36 (b) In arriving at the true value of any land used for
37 agricultural purposes, the appraisal shall be made according to
38 its use on January 1 of each year, regardless of its location; in
39 making the appraisal, the assessor shall use soil types,
40 productivity and other criteria set forth in the land appraisal
41 manuals of the State Tax Commission, which criteria shall include,
42 but not be limited to, an income capitalization approach with a
43 capitalization rate of not less than ten percent (10%) and a
44 moving average of not more than ten (10) years. However, for the
45 year 1990, the moving average shall not be more than five (5)
46 years; for the year 1991, not more than six (6) years; for the
47 year 1992, not more than seven (7) years; for the year 1993, not
48 more than eight (8) years; and for the year 1994, not more than
49 nine (9) years; and for the year 1990, the variation up or down
50 from the previous year shall not exceed twenty percent (20%) and
51 thereafter, the variation, up or down, from a previous year shall
52 not exceed ten percent (10%). The land shall be deemed to be used
53 for agricultural purposes when it is devoted to the commercial
54 production of crops and other commercial products of the soil,
55 including, but not limited to, the production of fruits and timber
56 or the raising of livestock and poultry; * * * however, enrollment
57 in the federal Conservation Reserve Program or in any other United
58 States Department of Agriculture conservation program shall not
59 preclude land being deemed to be used for agricultural purposes
60 solely on the ground that the land is not being devoted to the
61 production of commercial products of the soil, and income derived

62 from participation in the federal program may be used in
63 combination with other relevant criteria to determine the true
64 value of such land. The true value of aquaculture shall be
65 determined in the same manner as that used to determine the true
66 value of row crops.

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

70 (d) In arriving at the true value of affordable
71 multifamily housing, the appraisal shall be made according to
72 actual net operating income attributable to the property,
73 capitalized at a market value capitalization rate that reflects
74 the prevailing cost of capital for commercial real estate in the
75 geographical market in which the affordable multifamily housing is
76 located adjusted for the enhanced risk that any recorded land use
77 regulation places on the net operating income from property. The
78 State Tax Commission may prescribe in its land appraisal manuals
79 capitalization rates to be employed in appraisal of affordable
80 multifamily housing. Any tax credits, income generated from tax
81 credits or other governmental subsidiaries, shall not be
82 considered as income attributable to the property and shall be
83 exempt from ad valorem taxation. The owner of affordable
84 multifamily housing shall, upon the written request of the county
85 assessor, provide to the county tax assessor on or before April 1
86 of each year, an accurate statement of the actual net operating
87 income attributable to the property for the immediately preceding
88 year. The statement shall be prepared in accordance with
89 generally acceptable accounting principles. As used in this
90 paragraph:

91 (i) "Affordable multifamily housing" means
92 residential housing consisting of two (2) or more rental units,
93 the construction and/or rental of which is subject to Section 42
94 of the Internal Revenue Code (26 USC 42), the Home Investment

95 Partnership Program under the Cranston-Gonzalez National
96 Affordable Housing Act (42 USC 12741 et seq.), the Federal Home
97 Loan Banks Affordable Housing Program established pursuant to the
98 Financial Institutions Reform, Recovery and Enforcement Act
99 (FIRREA) of 1989 (Public Law 101-73), or any other federal, state
100 or similar program intended to provide affordable housing to
101 persons of low or moderate income and the occupancy and maximum
102 rental rates of such housing are restricted based on the income of
103 the person occupying such housing.

104 (ii) "Land use regulation" means a restriction
105 imposed by an extended low-income housing agreement or other
106 covenant recorded in the applicable land records or by applicable
107 law or regulation restricting the maximum income or residents
108 and/or the maximum rental rate in the affordable multifamily
109 housing.

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

112 (6) The State Tax Commission shall have the power to adopt,
113 amend or repeal such rules or regulations in a manner consistent
114 with the Constitution of the State of Mississippi to implement the
115 duties assigned to the commission in this section.

116 **SECTION 2.** This act shall be considered declaratory of
117 existing policy on assessment of real property used for affordable
118 multifamily housing under Section 112, Mississippi Constitution of
119 1890.

120 **SECTION 3.** This act shall take effect and be in force from
121 and after January 1, 2005.