

By: Representative Malone

To: Corrections

HOUSE BILL NO. 431
(As Passed the House)

1 AN ACT TO AMEND SECTION 47-5-66, MISSISSIPPI CODE OF 1972,
2 WHICH AUTHORIZES THE DEPARTMENT OF FINANCE AND ADMINISTRATION TO
3 LEASE PRISON LANDS TO PRIVATE ENTITIES FOR AGRICULTURAL PURPOSES,
4 TO EXTEND THE DATE OF REPEAL ON THIS SECTION FROM JULY 1, 2007, TO
5 JULY 1, 2008; TO PROVIDE THAT SUCH LEASES SHALL NOT BE LEASED FOR
6 AN AMOUNT LESS THAN WOULD BE RECEIVED IF SUCH LAND WERE TO BE
7 LEASED UNDER ANY FEDERAL LOAN PROGRAM; AND FOR RELATED PURPOSES.

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

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

11 47-5-66. (1) It shall be the duty of the State Department
12 of Finance and Administration, with the approval of the Public
13 Procurement Review Board, to lease lands at public contract upon
14 the submission of two (2) or more sealed bids to the State
15 Department of Finance and Administration after having advertised
16 the land for rent in newspapers of general circulation published
17 in Jackson, Mississippi; Memphis, Tennessee; the county in which
18 the land is located; and contiguous counties for a period of not
19 less than two (2) successive weeks. The first publication shall
20 be made not less than ten (10) days before the date of the public
21 contract, and the last publication shall be made not more than
22 seven (7) days before that date. The State Department of Finance
23 and Administration may reject any and all bids. If all bids on a
24 tract or parcel of land are rejected, the State Department of
25 Finance and Administration may then advertise for new bids on that
26 tract or parcel of land. Successful bidders shall take possession
27 of their leaseholds at the time authorized by the State Department
28 of Finance and Administration. However, rent shall be due no
29 later than the day upon which the lessee shall assume possession

30 of the leasehold, and shall be due on the anniversary date for
31 each following year of the lease. The State Department of Finance
32 and Administration may provide in any lease that rent shall be
33 paid in full in advance or paid in installments, as may be
34 necessary or appropriate. In addition, the State Department of
35 Finance and Administration may accept, and the lease may provide
36 for, assignments of federal, state, or other agricultural support
37 payments, growing crops or the proceeds from the sale thereof,
38 promissory notes, or any other good and valuable consideration
39 offered by any lessee to meet the rent requirements of the lease.
40 If a promissory note is offered by a lessee, it shall be secured
41 by a first lien on the crop of the lessee, or the proceeds from
42 the sale thereof. The lien shall be filed pursuant to Article 9
43 of the Mississippi Uniform Commercial Code and Section 1324 of the
44 Food Security Act of 1985, as enacted or amended. If the note is
45 not paid at maturity, it shall bear interest at the rate provided
46 for judgments and decrees in Section 75-17-7 from its maturity
47 date until the note is paid. The note shall provide for the
48 payment of all costs of collection and reasonable attorney's fees
49 if default is made in the payment of the note. The payment of
50 rent by promissory note or any means other than cash in advance
51 shall be subject to the approval of the Public Procurement Review
52 Board, which shall place the approval of record in the minutes of
53 the board. There is created a special fund to be designated as
54 the "Prison Agricultural Enterprises Fund." Any monies in hand or
55 due from the leasing of Penitentiary lands and the sales of timber
56 as provided in Section 47-5-56 and earmarked for the Prison
57 Industries Fund shall be deposited to the special fund for prison
58 agricultural enterprises. All monies in each fiscal year derived
59 from the leasing of the Penitentiary lands and the sales of timber
60 as provided in Section 47-5-56 shall be deposited into the special
61 fund for the purpose of conducting, operating and managing the
62 prison agricultural enterprises of the department. All profits

63 derived from the prison agricultural enterprises shall be
64 deposited into the Prison Agricultural Enterprises Fund. All
65 profits derived from prison industries shall be placed in a
66 special fund in the State Treasury to be known as the "Prison
67 Industries Fund," to be appropriated each year by the Legislature
68 to the nonprofit corporation, which is required to be organized
69 under the provisions of Section 47-5-535, for the purpose of
70 operating and managing the prison industries. The state shall
71 have the rights and remedies for the security and collection of
72 the rents given by law to landlords. Upon the execution of the
73 agricultural leases to private entities as authorized by Section
74 47-5-64, the leased land shall be liable to be taxed as other
75 lands are taxed during the continuance of the lease, but in case
76 of sale thereon for taxes, only the title of the leaseholder or
77 his heirs or assigns shall pass by the sale. Any funds obtained
78 by the corporation as a result of sale of goods and services
79 manufactured and provided by it shall be accounted for separate
80 and apart from any funds received by the corporation through
81 appropriation from the State Legislature. All nonappropriated
82 funds generated by the corporation shall not be subject to
83 appropriation by the State Legislature.

84 Any land leased, as provided in this section, shall not be
85 leased for an amount less than would be received if such land were
86 to be leased under any federal loan program. In addition, all
87 leases shall be subject to the final approval of the Public
88 Procurement Review Board before such leases are to become
89 effective.

90 (2) This section shall be repealed from and after July 1,
91 2008.

92 **SECTION 2.** This act shall take effect and be in force from
93 and after its passage.