

By: Representative Lott

To: Judiciary A

HOUSE BILL NO. 579

1 AN ACT TO AMEND SECTION 11-27-1, MISSISSIPPI CODE OF 1972, TO
2 PROHIBIT USE OF THE POWER OF EMINENT DOMAIN FOR CERTAIN PRIVATE,
3 NONGOVERNMENTAL PURPOSES; TO AMEND SECTION 11-27-7, MISSISSIPPI
4 CODE OF 1972, TO REVISE NOTICE REQUIREMENTS; AND FOR RELATED
5 PURPOSES.

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

7 **SECTION 1.** Section 11-27-1, Mississippi Code of 1972, is
8 amended as follows:

9 11-27-1. (1) Any person or corporation having the right to
10 condemn private property for public use shall exercise that right
11 as provided in this chapter, except as elsewhere specifically
12 provided under the laws of the State of Mississippi.

13 (2) Notwithstanding the provisions of this chapter or any
14 other provisions of law to the contrary, the right of eminent
15 domain shall not be exercised for the purposes of converting
16 privately owned real property for retail, office, commercial,
17 industrial or residential development; or primarily for
18 enhancement of tax revenue; or solely for economic development
19 purposes; or for transfer to a person, nongovernmental entity,
20 public-private partnership, corporation or other business entity.
21 Farmland shall not be declared blighted in order to justify the
22 use of eminent domain. Any condemning authority must declare
23 property other than farmland to be blighted or must demonstrate
24 that taking the property constitutes a genuine public use.

25 (3) Property condemned pursuant to any provision of law, if
26 not used for the purpose or purposes for which it was condemned or
27 for some other public use, that subsequently is determined to be
28 sold shall be offered first for sale to the person or persons from

29 whom the property was condemned, or to his or her known or
30 ascertainable heirs or assigns, at the price paid for the property
31 together with the fair market value of any improvements thereon,
32 less such amount, if any, as the person or persons from whom the
33 property was condemned shows by good and sufficient documentation
34 to be the amount of income and transaction taxes, if any, actually
35 paid in connection therewith. However, if the offer is not
36 accepted within ninety (90) days from the date it is made, the
37 property may be sold to any other person, but only at public sale
38 after legal notice is given.

39 (4) Condemning entities shall pay twenty-five percent (25%)
40 above the market value for homes taken by eminent domain plus all
41 relocation costs. Farmland held by the same family for
42 twenty-five (25) years or more shall be valued at one hundred
43 percent (100%) plus an additional one percent (1%) for each year
44 of ownership, with a minimum of one hundred twenty-five percent
45 (125%) and a maximum of one hundred fifty percent (150%) as the
46 value that must be paid.

47 (5) For the purposes of this section, the term "blighted
48 property" means property that contains any of the following
49 factors:

50 (a) The presence of structures, buildings or
51 improvements, which, because of dilapidation, deterioration, or
52 unsanitary or unsafe conditions, vacancy or abandonment, neglect
53 or lack of maintenance, inadequate provision for ventilation,
54 light, air, sanitation, vermin infestation or lack of necessary
55 facilities and equipment, are unfit for human habitation or
56 occupancy.

57 (b) The existence of high density of population and
58 overcrowding or the existence of structures which are fire hazards
59 or are otherwise dangerous to the safety of persons or property or
60 any combination of the factors.

61 (c) The presence of a substantial number of properties
62 having defective or unusual conditions of title which make the
63 free transfer or alienation of the properties unlikely or
64 impossible.

65 (d) The presence of structures from which the
66 utilities, plumbing, heating, sewerage or other facilities have
67 been disconnected, destroyed, removed or rendered ineffective so
68 that the property is unfit for its intended use.

69 (e) The presence of excessive vacant land on which
70 structures were previously located which, by reason of neglect or
71 lack of maintenance, has become overgrown with noxious weeds, is a
72 place for accumulation of trash and debris or a haven for
73 mosquitoes, rodents or other vermin where the owner refuses to
74 remedy the problem after notice by the appropriate governing body.

75 (f) The presence of property which, because of physical
76 condition, use or occupancy, constitutes a public nuisance or
77 attractive nuisance where the owner refuses to remedy the problem
78 after notice by the appropriate governing body.

79 (g) The presence of property with code violations
80 affecting health or safety that has not been substantially
81 rehabilitated within the time periods required by the applicable
82 codes.

83 (h) The presence of property that has tax delinquencies
84 exceeding the value of the property.

85 (i) The presence of property which, by reason of
86 environmental contamination, poses a threat to public health or
87 safety in its present condition.

88 **SECTION 2.** Section 11-27-7, Mississippi Code of 1972, is
89 amended as follows:

90 11-27-7. The complaint shall be filed with the circuit clerk
91 and shall be assigned a number and placed on the docket as other
92 pleadings in circuit court or county court. The plaintiff shall
93 also file a lis pendens notice in the office of the chancery clerk

94 immediately after filing the complaint. The circuit clerk, or the
95 plaintiff by his attorney, shall forthwith present such complaint
96 to the circuit judge or county judge, as the case may be, who
97 shall by written order directed to the circuit clerk fix the time
98 and place for the hearing of the matter, in termtime or vacation,
99 and the time of hearing shall be fixed on a date to allow
100 sufficient time for each defendant named to be served with process
101 as is otherwise provided by the Mississippi Rules of Civil
102 Procedure, for not less than sixty (60) days prior to the hearing.
103 If a defendant, or other party in interest, shall not be served
104 for the specified time prior to the date fixed, the hearing shall
105 be continued to a day certain to allow the sixty-day period
106 specified. Not less than twenty (20) days prior to the date fixed
107 for such hearing, the plaintiff shall file with the circuit clerk
108 and serve upon the defendants, or their respective attorneys, a
109 statement showing: (1) the fair market value of the property to
110 be condemned, determined as of the date of the filing of the
111 complaint; (2) the damages, if any, to the remainder if less than
112 the whole is taken, giving a total compensation and damages to be
113 due as determined by the plaintiff; and (3) a detailed disclosure
114 of all rights and remedies available to the defendant. Not less
115 than ten (10) days prior to the date fixed for such hearing, each
116 of the defendants shall file with the circuit clerk and serve upon
117 the plaintiff, or his attorney, a statement showing: (1) the fair
118 market value of the property to be condemned, determined as of the
119 date of the filing of the complaint; (2) the damages, if any, to
120 the remainder if less than the whole is taken, giving a total
121 compensation and damages to be due as determined by the
122 defendants. In each such instance, both the plaintiff and the
123 defendant shall set out in such statement the asserted highest and
124 best use of the property and shall itemize the elements of damage,
125 if any, to the remainder if less than the whole is taken. The
126 statements required by this section shall constitute the pleadings

127 of the parties with respect to the issue of value, and shall be
128 treated as pleadings are treated in civil actions in the circuit
129 court. The judge, for good cause shown, may increase or decrease
130 the time for pleading by the plaintiff or by the defendant.

131 **SECTION 3.** This act shall take effect and be in force from
132 and after its passage.