

By: Senator(s) Robertson

To: Finance

SENATE BILL NO. 3100
(As Sent to Governor)

1 AN ACT TO AMEND SECTION 27-35-50, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE THE MANNER IN WHICH THE APPRAISAL OF AFFORDABLE RENTAL
3 HOUSING SHALL BE MADE FOR THE PURPOSE OF ARRIVING AT THE TRUE
4 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 rental
71 housing, the assessor shall use the appraisal procedure set forth
72 in land appraisal manuals of the State Tax Commission. Such
73 procedure shall prescribe that the appraisal shall be made
74 according to actual net operating income attributable to the
75 property, capitalized at a market value capitalization rate
76 prescribed by the State Tax Commission that reflects the
77 prevailing cost of capital for commercial real estate in the
78 geographical market in which the affordable rental housing is
79 located adjusted for the enhanced risk that any recorded land use
80 regulation places on the net operating income from the property.
81 The owner of affordable rental housing shall provide to the county
82 tax assessor on or before April 1 of each year, an accurate
83 statement of the actual net operating income attributable to the
84 property for the immediately preceding year prepared in accordance
85 with generally acceptable accounting principles. As used in this
86 paragraph:

87 (i) "Affordable rental housing" means residential
88 housing consisting of one or more rental units, the construction
89 and/or rental of which is subject to Section 42 of the Internal
90 Revenue Code (26 USC 42), the Home Investment Partnership Program
91 under the Cranston-Gonzalez National Affordable Housing Act (42
92 USC 12741 et seq.), the Federal Home Loan Banks Affordable Housing
93 Program established pursuant to the Financial Institutions Reform,
94 Recovery and Enforcement Act (FIRREA) of 1989 (Public Law 101-73),

95 or any other federal, state or similar program intended to provide
96 affordable housing to persons of low or moderate income and the
97 occupancy and maximum rental rates of such housing are restricted
98 based on the income of the persons occupying such housing.

99 (ii) "Land use regulation" means a restriction
100 imposed by an extended low-income housing agreement or other
101 covenant recorded in the applicable land records or by applicable
102 law or regulation restricting the maximum income or residents
103 and/or the maximum rental rate in the affordable rental housing.

104 (5) The true value of each class of property shall be
105 determined annually.

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

110 **SECTION 2.** This act shall be considered declaratory of
111 existing policy on assessment of real property used for affordable
112 rental housing under Section 112, Mississippi Constitution of
113 1890.

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