

By: Denny

To: Municipalities

HOUSE BILL NO. 1337

1 AN ACT TO AMEND SECTION 21-17-1, MISSISSIPPI CODE OF 1972, TO  
2 AUTHORIZE THE GOVERNING AUTHORITIES OF MUNICIPALITIES WHICH  
3 CONTRACT WITH PRIVATE ATTORNEYS OR COLLECTION AGENCIES TO COLLECT  
4 ANY TYPE OF DELINQUENT PAYMENT OWED TO THE MUNICIPALITY, TO  
5 COLLECT AN ADDITIONAL AMOUNT FOR THE COST INCURRED IN THE  
6 COLLECTION OF THE DELINQUENT PAYMENT; AND FOR RELATED PURPOSES.

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

8 SECTION 1. Section 21-17-1, Mississippi Code of 1972, is  
9 amended as follows:[BD1]

10 21-17-1. Every municipality of this state shall be a  
11 municipal corporation and shall have power to sue and be sued; to  
12 purchase and hold real estate, either within or without the  
13 corporate limits, for all proper municipal purposes, including  
14 parks, cemeteries, hospitals, schoolhouses, houses of correction,  
15 waterworks, electric lights, sewers and other proper municipal  
16 purposes; to purchase and hold personal property for all proper  
17 municipal purposes; to acquire equipment and machinery by  
18 lease-purchase agreement and to pay interest thereon, if  
19 contracted, when needed for proper municipal purposes; to sell and  
20 convey any real and personal property owned by it, and make such  
21 order respecting the same as may be deemed conducive to the best  
22 interest of the municipality, and exercise jurisdiction over the  
23 same.

24 In case any of the real property belonging to a municipality  
25 shall cease to be used for municipal purposes, the governing  
26 authorities of the municipality may sell, convey or lease the same  
27 on such terms as the municipal authorities may elect. In case of  
28 a sale on a credit, the municipality shall charge appropriate

29 interest as contracted and shall have a lien on the same for the  
30 purchase money, as against all persons, until paid and may enforce  
31 the lien as in such cases provided by law. The deed of conveyance  
32 in such cases shall be executed in the name of the municipality by  
33 the governing authorities of the municipality pursuant to their  
34 order entered on the minutes of their meetings. In any sale or  
35 conveyance of real property, the municipality shall retain all  
36 mineral rights that it owns, together with the right of ingress  
37 and egress to remove same. Before any such lease, deed or  
38 conveyance is executed, the governing authorities of the  
39 municipality shall publish at least once each week for three (3)  
40 consecutive weeks, in a public newspaper of the municipality in  
41 which the real property is located, or if no newspaper be  
42 published as such, then in a newspaper having general circulation  
43 therein, the intention to lease or sell, as the case may be, the  
44 municipally owned real property and to accept sealed competitive  
45 bids for the leasing or sale. The governing authorities of the  
46 municipality shall thereafter accept bids for the lease or sale  
47 and shall award the lease or sale to the highest bidder in the  
48 manner provided by law. However, whenever the governing  
49 authorities of the municipality shall find and determine, by  
50 resolution duly and lawfully adopted and spread upon its minutes  
51 (a) that any municipally owned real property is no longer needed  
52 for municipal or related purposes and is not to be used in the  
53 operation of the municipality, (b) that the sale of such property  
54 in the manner otherwise provided by law is not necessary or  
55 desirable for the financial welfare of the municipality, and (c)  
56 that the use of such property for the purpose for which it is to  
57 be sold, conveyed or leased will promote and foster the  
58 development and improvement of the community in which it is  
59 located and the civic, social, educational, cultural, moral,  
60 economic or industrial welfare thereof, the governing authorities  
61 of the municipality shall be authorized and empowered, in their  
62 discretion, to sell, convey or lease same for any of the purposes  
63 set forth herein without having to advertise for and accept  
64 competitive bids. In any case in which a municipality proposes to  
65 sell, convey or lease real property under the provisions of this

66 section without advertising for and accepting competitive bids,  
67 consideration for the purchase, conveyance or lease of the  
68 property shall be not less than the average of the fair market  
69 price for such property as determined by three (3) professional  
70 property appraisers selected by the municipality and approved by  
71 the purchaser or lessee. Appraisal fees shall be shared equally  
72 by the municipality and the purchaser or lessee.

73 Whenever the governing authorities of the municipality shall  
74 find and determine by resolution duly and lawfully adopted and  
75 spread upon the minutes that municipally owned real property is  
76 not used for municipal purposes and therefore surplus as set forth  
77 hereinabove:

78 (a) The governing authority may donate such lands to a  
79 bona fide not-for-profit civic or eleemosynary corporation  
80 organized and existing under the laws of the State of Mississippi  
81 and granted tax exempt status by the Internal Revenue Service and  
82 may donate such lands and necessary funds related thereto to the  
83 public school district in which the land is situated for the  
84 purposes set forth herein. Any deed or conveyance executed  
85 pursuant hereto shall contain a clause of reverter providing that  
86 the bona fide not-for-profit corporation or public school district  
87 may hold title to such lands only so long as they are continued to  
88 be used for the civic, social, educational, cultural, moral,  
89 economic or industrial welfare of the community, and that title  
90 shall revert to the municipality in the event of the cessation of  
91 such use for a period of two (2) years. In any such deed or  
92 conveyance, the municipality shall retain all mineral rights that  
93 it owns, together with the right of ingress and egress to remove  
94 same;

95 (b) The governing authority may donate such lands to a  
96 bona fide not-for-profit corporation (such as Habitat for  
97 Humanity) which is primarily engaged in the construction of  
98 housing for persons who otherwise can afford to live only in  
99 substandard housing. In any such deed or conveyance, the  
100 municipality shall retain all mineral rights that it owns,  
101 together with the right of ingress and egress to remove same;

102 (c) In the event the governing authority does not wish

103 to donate title to such lands to the bona fide not-for-profit or  
104 eleemosynary corporation, but wishes to retain title to the lands,  
105 the governing authority may lease the lands to a bona fide  
106 not-for-profit corporation described in paragraph (a) or (b) for  
107 less than fair market value.

108 Every municipality shall also be authorized and empowered to  
109 loan to private persons or entities, whether organized for profit  
110 or nonprofit, funds received from the United States Department of  
111 Housing and Urban Development (HUD) under an urban development  
112 action grant or a community development block grant under the  
113 Housing and Community Development Act of 1974 (Public Law 93-383),  
114 as amended, and to charge interest thereon if contracted, provided  
115 that no such loan shall include any funds from any revenues other  
116 than the funds from the United States Department of Housing and  
117 Urban Development; to make all contracts and do all other acts in  
118 relation to the property and affairs of the municipality necessary  
119 to the exercise of its governmental, corporate and administrative  
120 powers; and to exercise such other or further powers as are  
121 otherwise conferred by law.

122 The governing authorities of any municipality may contract  
123 with a private attorney or private collection agent or agency to  
124 collect any type of delinquent payment owed to the municipality  
125 including, but not limited to, past due fees and fines. Any such  
126 contract debt may provide for payment contingent upon successful  
127 collection efforts or payment based upon a percentage of the  
128 delinquent amount collected; however, the entire amount of all  
129 delinquent payments collected shall be remitted to the  
130 municipality and shall not be reduced by any collection costs or  
131 fees. There shall be due to the municipality from any person  
132 whose delinquent payment is collected under a contract executed as  
133 provided in this subsection an amount, in addition to the  
134 delinquent payment, of not to exceed twenty-five percent (25%) of  
135 the delinquent payment for collections made within this state, and

136 not to exceed fifty percent (50%) of the delinquent payment for  
137 collections made outside of this state. However, in the case of  
138 delinquent fees owed to the municipality for garbage or rubbish  
139 collection or disposal, only the amount of the delinquent fees may  
140 be collected and no amount in addition to the delinquent fees may  
141 be collected if the governing authorities of the municipality has  
142 notified the county tax collector under Section 21-19-2 for the  
143 purpose of prohibiting the issuance of a motor vehicle road and  
144 bridge privilege license tag to the person delinquent in the  
145 payment of such fees. Any private attorney or private collection  
146 agent or agency contracting with the municipality under the  
147 provisions of this paragraph shall give bond or other surety  
148 payable to the municipality in such amount as the governing  
149 authorities of the municipality deem sufficient. Any private  
150 attorney with whom the municipality contracts under the provisions  
151 of this paragraph must be a member in good standing of the  
152 Mississippi Bar. Any private collection agent or agency with whom  
153 the municipality contracts under the provisions of this paragraph  
154 must meet all licensing requirements for doing business in the  
155 State of Mississippi. Neither the municipality nor any officer or  
156 employee of the municipality shall be liable, civilly or  
157 criminally, for any wrongful or unlawful act or omission of any  
158 person or business with whom the municipality has contracted under  
159 the provisions of this paragraph. The Mississippi Department of  
160 Audit shall establish rules and regulations for use by  
161 municipalities in contracting with persons or businesses under the  
162 provisions of this paragraph.

163 In addition to such authority as is otherwise granted under  
164 this section, the governing authorities of any municipality may  
165 expend funds necessary to maintain and repair, and to purchase  
166 liability insurance, tags and decals for, any personal property  
167 acquired under the Federal Excess Personal Property Program that  
168 is used by the local volunteer fire department.

169           The governing authorities of any municipality may, in its  
170 discretion, donate personal property or funds to the public school  
171 district or districts located in the municipality for the  
172 promotion of educational programs of the district or districts  
173 within the municipality.

174           The powers conferred by this section shall be in addition and  
175 supplemental to the powers conferred by any other law, and nothing  
176 contained in this section shall be construed to prohibit, or to  
177 prescribe conditions concerning, any practice or practices  
178 authorized under any other law.

179           SECTION 2. This act shall take effect and be in force from  
180 and after July 1, 2000.