

By: Jordan

To: Municipalities

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 2580

1 AN ACT TO AMEND SECTION 21-19-11, MISSISSIPPI CODE OF 1972,
2 TO ALLOW THE GOVERNING AUTHORITY OF A MUNICIPALITY TO IMPOSE AN
3 ADMINISTRATIVE FEE AGAINST THE OWNER OF PROPERTY IN NEED OF
4 CLEANING UNDER CERTAIN CIRCUMSTANCES; AND FOR RELATED PURPOSES.

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

6 SECTION 1. Section 21-19-11, Mississippi Code of 1972, is
7 amended as follows:[CSQ1]

8 21-19-11. (1) The governing authority of any municipality
9 is hereby authorized and empowered, on its own motion, or upon the
10 receipt of a petition requesting the municipal authority to so act
11 signed by a majority of the residents residing upon any street or
12 alley within three hundred (300) feet of any parcel of land
13 alleged to be in need of cleaning, to give notice to the property
14 owner by U.S. registered mail or certified mail two (2) weeks
15 before the date of a hearing, or by service of notice as provided
16 in this section by a police officer at least two (2) weeks before
17 the date of a hearing, or if the property owner be unknown or his
18 address unknown, then by two (2) weeks' notice in a newspaper
19 having a general circulation in the municipality, of a hearing to
20 determine whether or not any parcel of land is in such a state of
21 uncleanliness as to be a menace to the public health and safety of
22 the community. If, at such hearing, the governing authority
23 shall, in its resolution, adjudicate such a parcel of land in its
24 then condition to be a menace to the public health and safety of
25 the community, the governing authority shall, if the owner does
26 not do so himself, proceed to clean the land, by the use of
27 municipal employees or by contract, by cutting weeds; filling

28 cisterns; removing rubbish, dilapidated fences, outside toilets,
29 dilapidated buildings and other debris; and draining cesspools and
30 standing water therefrom. Thereafter, the governing authority
31 may, at its next regular meeting, by resolution adjudicate the
32 actual cost of cleaning the property and may also impose a penalty
33 in an amount not to exceed twenty-five percent (25%) of such
34 actual cost. The cost and any penalty or administrative fee may
35 become a civil debt against the property owner, or, at the option
36 of the governing authority, an assessment against the property.
37 The cost assessed against the property means the cost to the
38 municipality of using its own employees to do the work or the cost
39 to the municipality of any contract executed by the municipality
40 to have the work done. The action herein authorized shall not be
41 undertaken against any one (1) parcel of land more than five (5)
42 times in any one (1) calendar year, and the expense of cleaning of
43 said property shall not exceed an aggregate amount of Ten Thousand
44 Dollars (\$10,000.00) per year, or the fair market value of the
45 property subsequent to cleaning, whichever is less.

46 (2) In the event the governing authority declares, by
47 resolution, that the cost and any penalty shall be collected as a
48 civil debt, the governing authority may authorize the institution
49 of a suit on open account against the owner of the property in a
50 court of competent jurisdiction in the manner provided by law for
51 the cost and any penalty, plus court costs, reasonable attorneys'
52 fees and interest from the date that the property was cleaned.

53 (3) In the event that the governing authority does not
54 declare that the cost and any penalty shall be collected as a
55 civil debt, then the assessment above provided for shall be a lien
56 against the property and may be enrolled in the office of the
57 circuit clerk of the county as other judgments are enrolled, and
58 the tax collector of the municipality shall, upon order of the
59 board of governing authorities, proceed to sell the land to
60 satisfy the lien as now provided by law for the sale of lands for
61 delinquent municipal taxes.

62 (4) All decisions rendered under the provisions of this
63 section may be appealed in the same manner as other appeals from
64 municipal boards or courts are taken. In the event the decision

65 is upheld on appeal, and the landowner cleans the land, thereby
66 abating the hazard, the governing authority may impose an
67 administrative fee against the property owner in an amount not to
68 exceed Two Hundred Fifty Dollars (\$250.00).

69 (5) The police officer's return on the notice may be in one
70 (1) of the following forms:

71 (a) Form of personal notice:

72 "I have this day delivered the within notice personally, by
73 delivering to the within named property owner, _____
74 (here state name of party summoned), a true copy of this notice.

75 This, the ____ day of _____ 19 ____.

76 _____ (Police Officer)"

77 (b) Form of notice where copy left at residence:

78 "I have this day delivered the within notice to _____,
79 within named property owner, by leaving a true copy of the same at
80 his (or her) usual place of abode in my municipality, with
81 _____, his (or her) (here insert wife, husband, son,
82 daughter or some other person, as the case may be),
83 _____ a member of his (or her) family above the age of
84 sixteen (16) years, and willing to receive such copy. The said
85 property owner is not found in my municipality.

86 This, the ____ day of _____ 19 ____.

87 _____ (Police Officer)"

88 (c) Form of return when property owner not found within
89 municipality and is a nonresident thereof:

90 "I have this day attempted to deliver the within notice to
91 _____, the within named property owner, and after
92 diligent search and inquiry, I failed to find the same property
93 owner within my municipality, nor could I ascertain the location
94 of any residence of the property owner within my municipality.

95 This, the ____ day of _____ 19 ____.

96 _____ (Police Officer)"

97 The first mode of notice should be made, if it can be; if

98 not, then the second mode should be made, if it can be; and the
99 return of the second mode of service must negate the officer's
100 ability to make the first. If neither the first nor second mode
101 of service can be made, then the third mode should be made, and
102 the return thereof must negate the officer's ability to make both
103 the first and second. In the event the third mode of service is
104 made, then service shall also be made by publication as provided
105 in subsection (1) of this section.

106 (6) The officer shall mark on all notices the day of the
107 receipt thereof by him, and he shall return the same on or before
108 the day of the hearing, with a written statement of his
109 proceedings thereon. For failing to note the time of the receipt
110 of notice or for failing to return the same, the officer shall
111 forfeit to the party aggrieved the sum of Twenty-five Dollars
112 (\$25.00).

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