

By: Representatives Reeves, Denny, Robinson
(63rd)

To: Municipalities

HOUSE BILL NO. 778

1 AN ACT TO AMEND SECTION 21-19-11, MISSISSIPPI CODE OF 1972,
2 TO INCREASE THE PENALTY CHARGED PRIVATE PROPERTY OWNERS WHEN THE
3 MUNICIPALITY CLEANS THEIR PROPERTY AND TO PROVIDE THAT THE
4 MUNICIPALITY IS NOT REQUIRED TO GIVE THE PROPERTY OWNER NOTICE IF
5 IT IS NECESSARY FOR THE MUNICIPALITY TO CLEAN THE PROPERTY AGAIN
6 WITHIN THE SAME CALENDAR YEAR; AND FOR RELATED PURPOSES.

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

8 SECTION 1. Section 21-19-11, Mississippi Code of 1972, is
9 amended as follows:

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

29 use of municipal employees or by contract, by cutting weeds;
30 filling cisterns; removing rubbish, dilapidated fences, outside
31 toilets, dilapidated buildings and other debris; and draining
32 cesspools and standing water therefrom. Thereafter, the governing
33 authority may, at its next regular meeting, by resolution
34 adjudicate the actual cost of cleaning the property and may also
35 impose a penalty of Two Hundred Fifty Dollars (\$250.00) or
36 twenty-five percent (25%) of such actual cost, whichever is more.
37 The cost and any penalty may become a civil debt against the
38 property owner, or, at the option of the governing authority, an
39 assessment against the property. The cost assessed against the
40 property means the cost to the municipality of using its own
41 employees to do the work or the cost to the municipality of any
42 contract executed by the municipality to have the work done. The
43 action herein authorized shall not be undertaken against any one
44 (1) parcel of land more than five (5) times in any one (1)
45 calendar year, and the expense of cleaning of said property shall
46 not exceed an aggregate amount of Ten Thousand Dollars
47 (\$10,000.00) per year, or the fair market value of the property
48 subsequent to cleaning, whichever is less. If it is determined by
49 the governing authorities of a municipality that it is necessary
50 to clean a parcel of land more than once within a calendar year,
51 then the municipality may clean such property without giving
52 notice to the property owner and may assess the same penalty for
53 each time they clean as otherwise provided in this section.

54 (2) In the event the governing authority declares, by
55 resolution, that the cost and any penalty shall be collected as a
56 civil debt, the governing authority may authorize the institution
57 of a suit on open account against the owner of the property in a
58 court of competent jurisdiction in the manner provided by law for
59 the cost and any penalty, plus court costs, reasonable attorneys'
60 fees and interest from the date that the property was cleaned.

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

70 (4) All decisions rendered under the provisions of this
71 section may be appealed in the same manner as other appeals from
72 municipal boards or courts are taken.

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

75 (a) Form of personal notice:

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

80 This, the _____ day of _____ 19 ____.

81 _____ (Police Officer)"

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

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

93 This, the _____ day of _____ 19 ____.

94 _____ (Police Officer)"

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

97 "I have this day attempted to deliver the within
98 notice to _____, the within named property
99 owner, and after diligent search and inquiry, I failed
100 to find the same property owner within my municipality,
101 nor could I ascertain the location of any residence of
102 the property owner within my municipality.

103 This, the _____ day of _____ 19 ____.

104 _____ (Police Officer)"

105 The first mode of notice should be made, if it can be; if
106 not, then the second mode should be made, if it can be; and the
107 return of the second mode of service must negate the officer's
108 ability to make the first. If neither the first nor second mode
109 of service can be made, then the third mode should be made, and
110 the return thereof must negate the officer's ability to make both
111 the first and second. In the event the third mode of service is
112 made, then service shall also be made by publication as provided
113 in subsection (1) of this section.

114 (6) The officer shall mark on all notices the day of the
115 receipt thereof by him, and he shall return the same on or before
116 the day of the hearing, with a written statement of his
117 proceedings thereon. For failing to note the time of the receipt
118 of notice or for failing to return the same, the officer shall
119 forfeit to the party aggrieved the sum of Twenty-five Dollars
120 (\$25.00).

121 SECTION 2. This act shall take effect and be in force from
122 and after July 1, 2001.