

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

To: Municipalities

HOUSE BILL NO. 778  
(As Passed the House)

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. The  
54 penalty provided herein shall not be assessed against the State of  
55 Mississippi upon request for reimbursement under Section 29-1-145,  
56 nor shall a municipality clean a parcel owned by the State of  
57 Mississippi without first giving notice.

58 (2) In the event the governing authority declares, by  
59 resolution, that the cost and any penalty shall be collected as a  
60 civil debt, the governing authority may authorize the institution  
61 of a suit on open account against the owner of the property in a

62 court of competent jurisdiction in the manner provided by law for  
63 the cost and any penalty, plus court costs, reasonable attorneys'  
64 fees and interest from the date that the property was cleaned.

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

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

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

79 (a) Form of personal notice:

80 "I have this day delivered the within notice  
81 personally, by delivering to the within named property  
82 owner, \_\_\_\_\_ (here state name of party  
83 summoned), a true copy of this notice.

84 This, the \_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_.

85 \_\_\_\_\_ (Police Officer)"

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

87 "I have this day delivered the within notice to  
88 \_\_\_\_\_, within named property owner, by  
89 leaving a true copy of the same at his (or her) usual  
90 place of abode in my municipality, with  
91 \_\_\_\_\_, his (or her) (here insert wife,  
92 husband, son, daughter or some other person, as the case  
93 may be), \_\_\_\_\_ a member of his (or her)  
94 family above the age of sixteen (16) years, and willing

95 to receive such copy. The said property owner is not  
96 found in my municipality.

97 This, the \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_.  
98 \_\_\_\_\_ (Police Officer)"

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

101 "I have this day attempted to deliver the within  
102 notice to \_\_\_\_\_, the within named property  
103 owner, and after diligent search and inquiry, I failed  
104 to find the same property owner within my municipality,  
105 nor could I ascertain the location of any residence of  
106 the property owner within my municipality.

107 This, the \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_.  
108 \_\_\_\_\_ (Police Officer)"

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

118 (6) The officer shall mark on all notices the day of the  
119 receipt thereof by him, and he shall return the same on or before  
120 the day of the hearing, with a written statement of his  
121 proceedings thereon. For failing to note the time of the receipt  
122 of notice or for failing to return the same, the officer shall  
123 forfeit to the party aggrieved the sum of Twenty-five Dollars  
124 (\$25.00).

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