

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

To: Municipalities

HOUSE BILL NO. 778
(As Sent to Governor)

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 REQUIRED TO GIVE NOTICE TO THE PROPERTY OWNER 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 provided notice to
52 the property owner is given by United States regular mail to the
53 last known address at least ten (10) days before cleaning the
54 property. The governing authorities of a municipality may assess
55 the same penalty for each time they clean as otherwise provided in
56 this section. The penalty provided herein shall not be assessed
57 against the State of Mississippi upon request for reimbursement
58 under Section 29-1-145, nor shall a municipality clean a parcel
59 owned by the State of Mississippi without first giving notice.

60 (2) In the event the governing authority declares, by
61 resolution, that the cost and any penalty shall be collected as a

62 civil debt, the governing authority may authorize the institution
63 of a suit on open account against the owner of the property in a
64 court of competent jurisdiction in the manner provided by law for
65 the cost and any penalty, plus court costs, reasonable attorney's
66 fees and interest from the date that the property was cleaned.

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

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

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

81 (a) Form of personal notice:

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

86 This, the ____ day of _____ 20 ____.

87 _____ (Police Officer)"

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

89 "I have this day delivered the within notice to
90 _____, within named property owner, by
91 leaving a true copy of the same at his (or her) usual
92 place of abode in my municipality, with
93 _____, his (or her) (here insert wife,
94 husband, son, daughter or some other person, as the case

95 may be), _____ a member of his (or her)
96 family above the age of sixteen (16) years, and willing
97 to receive such copy. The said property owner is not
98 found in my municipality.

99 This, the _____ day of _____ 20 ____.

100 _____ (Police Officer)"

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

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

109 This, the _____ day of _____ 20 ____.

110 _____ (Police Officer)"

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

120 (6) The officer shall mark on all notices the day of the
121 receipt thereof by him, and he shall return the same on or before
122 the day of the hearing, with a written statement of his
123 proceedings thereon. For failing to note the time of the receipt
124 of notice or for failing to return the same, the officer shall
125 forfeit to the party aggrieved the sum of Twenty-five Dollars
126 (\$25.00).

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