

By: Representative Zuber

To: Municipalities

HOUSE BILL NO. 1129

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:

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
104 civic or eleemosynary corporation, but wishes to retain title to
105 the lands, the governing authority may lease the lands to a bona
106 fide not-for-profit corporation described in paragraph (a) or (b)
107 for 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. Any private attorney or private collection agent or agency
132 contracting with the municipality under the provisions of this
133 paragraph shall give bond or other surety payable to the
134 municipality in such amount as the governing authorities of the
135 municipality deem sufficient. Any private attorney with whom the
136 municipality contracts under the provisions of this paragraph must
137 be a member in good standing of The Mississippi Bar. Any private
138 collection agent or agency with whom the municipality contracts
139 under the provisions of this paragraph must meet all licensing
140 requirements for doing business in the State of Mississippi.
141 Neither the municipality nor any officer or employee of the
142 municipality shall be liable, civilly or criminally, for any
143 wrongful or unlawful act or omission of any person or business
144 with whom the municipality has contracted under the provisions of
145 this paragraph. The Mississippi Department of Audit shall
146 establish rules and regulations for use by municipalities in
147 contracting with persons or businesses under the provisions of
148 this paragraph. If a municipality uses its own employees to
149 collect any type of delinquent payment owed to the municipality,
150 then from and after July 1, 2000, the municipality may charge an
151 additional fee for collection of the delinquent payment provided
152 the payment has been delinquent for ninety (90) days. The
153 collection fee may not exceed fifteen percent (15%) of the
154 delinquent payment if the collection is made within this state and
155 may not exceed twenty-five percent (25%) of the delinquent payment
156 if the collection is made outside this state. In conducting
157 collection of delinquent payments, the municipality may utilize
158 credit cards or electronic fund transfers. The municipality may
159 pay any service fees for the use of such methods of collection
160 from the collection fee, but not from the delinquent payment.

161 There shall be due to the municipality from any person whose
162 delinquent payment is collected under a contract executed as
163 provided in this subsection an amount, in addition to the
164 delinquent payment, of not to exceed twenty-five percent (25%) of
165 the delinquent payment for collections made within this state, and
166 not to exceed fifty percent (50%) of the delinquent payment for
167 collections made outside of this state.

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

174 The governing authorities of any municipality may, in its
175 discretion, donate personal property or funds to the public school
176 district or districts located in the municipality for the
177 promotion of educational programs of the district or districts
178 within the municipality.

179 The powers conferred by this section shall be in addition and
180 supplemental to the powers conferred by any other law, and nothing
181 contained in this section shall be construed to prohibit, or to
182 prescribe conditions concerning, any practice or practices
183 authorized under any other law.

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