

By: Representative Zuber

To: Municipalities

HOUSE BILL NO. 1129  
(As Sent to Governor)

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 TO AUTHORIZE  
7 MUNICIPALITIES TO EXPEND FUNDS TO MATCH FEDERAL, STATE OR PRIVATE  
8 FUNDING FOR ANY PROGRAMS ADMINISTERED BY THE STATE OR FEDERAL  
9 GOVERNMENT; AND FOR RELATED PURPOSES.

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

11 SECTION 1. Section 21-17-1, Mississippi Code of 1972, is  
12 amended as follows:

13 21-17-1. Every municipality of this state shall be a  
14 municipal corporation and shall have power to sue and be sued; to  
15 purchase and hold real estate, either within or without the  
16 corporate limits, for all proper municipal purposes, including  
17 parks, cemeteries, hospitals, schoolhouses, houses of correction,  
18 waterworks, electric lights, sewers and other proper municipal  
19 purposes; to purchase and hold personal property for all proper  
20 municipal purposes; to acquire equipment and machinery by  
21 lease-purchase agreement and to pay interest thereon, if  
22 contracted, when needed for proper municipal purposes; to sell and  
23 convey any real and personal property owned by it, and make such  
24 order respecting the same as may be deemed conducive to the best  
25 interest of the municipality, and exercise jurisdiction over the  
26 same.

27 In case any of the real property belonging to a municipality  
28 shall cease to be used for municipal purposes, the governing  
29 authorities of the municipality may sell, convey or lease the same

30 on such terms as the municipal authorities may elect. In case of  
31 a sale on a credit, the municipality shall charge appropriate  
32 interest as contracted and shall have a lien on the same for the  
33 purchase money, as against all persons, until paid and may enforce  
34 the lien as in such cases provided by law. The deed of conveyance  
35 in such cases shall be executed in the name of the municipality by  
36 the governing authorities of the municipality pursuant to their  
37 order entered on the minutes of their meetings. In any sale or  
38 conveyance of real property, the municipality shall retain all  
39 mineral rights that it owns, together with the right of ingress  
40 and egress to remove same. Before any such lease, deed or  
41 conveyance is executed, the governing authorities of the  
42 municipality shall publish at least once each week for three (3)  
43 consecutive weeks, in a public newspaper of the municipality in  
44 which the real property is located, or if no newspaper be  
45 published as such, then in a newspaper having general circulation  
46 therein, the intention to lease or sell, as the case may be, the  
47 municipally owned real property and to accept sealed competitive  
48 bids for the leasing or sale. The governing authorities of the  
49 municipality shall thereafter accept bids for the lease or sale  
50 and shall award the lease or sale to the highest bidder in the  
51 manner provided by law. However, whenever the governing  
52 authorities of the municipality shall find and determine, by  
53 resolution duly and lawfully adopted and spread upon its minutes  
54 (a) that any municipally owned real property is no longer needed  
55 for municipal or related purposes and is not to be used in the  
56 operation of the municipality, (b) that the sale of such property  
57 in the manner otherwise provided by law is not necessary or  
58 desirable for the financial welfare of the municipality, and (c)  
59 that the use of such property for the purpose for which it is to  
60 be sold, conveyed or leased will promote and foster the  
61 development and improvement of the community in which it is  
62 located and the civic, social, educational, cultural, moral,

63 economic or industrial welfare thereof, the governing authorities  
64 of the municipality shall be authorized and empowered, in their  
65 discretion, to sell, convey or lease same for any of the purposes  
66 set forth herein without having to advertise for and accept  
67 competitive bids. In any case in which a municipality proposes to  
68 sell, convey or lease real property under the provisions of this  
69 section without advertising for and accepting competitive bids,  
70 consideration for the purchase, conveyance or lease of the  
71 property shall be not less than the average of the fair market  
72 price for such property as determined by three (3) professional  
73 property appraisers selected by the municipality and approved by  
74 the purchaser or lessee. Appraisal fees shall be shared equally  
75 by the municipality and the purchaser or lessee.

76 Whenever the governing authorities of the municipality shall  
77 find and determine by resolution duly and lawfully adopted and  
78 spread upon the minutes that municipally owned real property is  
79 not used for municipal purposes and therefore surplus as set forth  
80 hereinabove:

81 (a) The governing authority may donate such lands to a  
82 bona fide not-for-profit civic or eleemosynary corporation  
83 organized and existing under the laws of the State of Mississippi  
84 and granted tax exempt status by the Internal Revenue Service and  
85 may donate such lands and necessary funds related thereto to the  
86 public school district in which the land is situated for the  
87 purposes set forth herein. Any deed or conveyance executed  
88 pursuant hereto shall contain a clause of reverter providing that  
89 the bona fide not-for-profit corporation or public school district  
90 may hold title to such lands only so long as they are continued to  
91 be used for the civic, social, educational, cultural, moral,  
92 economic or industrial welfare of the community, and that title  
93 shall revert to the municipality in the event of the cessation of  
94 such use for a period of two (2) years. In any such deed or  
95 conveyance, the municipality shall retain all mineral rights that

96 it owns, together with the right of ingress and egress to remove  
97 same;

98 (b) The governing authority may donate such lands to a  
99 bona fide not-for-profit corporation (such as Habitat for  
100 Humanity) which is primarily engaged in the construction of  
101 housing for persons who otherwise can afford to live only in  
102 substandard housing. In any such deed or conveyance, the  
103 municipality shall retain all mineral rights that it owns,  
104 together with the right of ingress and egress to remove same;

105 (c) In the event the governing authority does not wish  
106 to donate title to such lands to the bona fide not-for-profit  
107 civic or eleemosynary corporation, but wishes to retain title to  
108 the lands, the governing authority may lease the lands to a bona  
109 fide not-for-profit corporation described in paragraph (a) or (b)  
110 for less than fair market value.

111 Every municipality shall also be authorized and empowered to  
112 loan to private persons or entities, whether organized for profit  
113 or nonprofit, funds received from the United States Department of  
114 Housing and Urban Development (HUD) under an urban development  
115 action grant or a community development block grant under the  
116 Housing and Community Development Act of 1974 (Public Law 93-383),  
117 as amended, and to charge interest thereon if contracted, provided  
118 that no such loan shall include any funds from any revenues other  
119 than the funds from the United States Department of Housing and  
120 Urban Development; to make all contracts and do all other acts in  
121 relation to the property and affairs of the municipality necessary  
122 to the exercise of its governmental, corporate and administrative  
123 powers; and to exercise such other or further powers as are  
124 otherwise conferred by law.

125 The governing authorities of any municipality may contract  
126 with a private attorney or private collection agent or agency to  
127 collect any type of delinquent payment owed to the municipality  
128 including, but not limited to, past due fees and fines. Any such

129 contract debt may provide for payment contingent upon successful  
130 collection efforts or payment based upon a percentage of the  
131 delinquent amount collected; however, the entire amount of all  
132 delinquent payments collected shall be remitted to the  
133 municipality and shall not be reduced by any collection costs or  
134 fees. Any private attorney or private collection agent or agency  
135 contracting with the municipality under the provisions of this  
136 paragraph shall give bond or other surety payable to the  
137 municipality in such amount as the governing authorities of the  
138 municipality deem sufficient. Any private attorney with whom the  
139 municipality contracts under the provisions of this paragraph must  
140 be a member in good standing of The Mississippi Bar. Any private  
141 collection agent or agency with whom the municipality contracts  
142 under the provisions of this paragraph must meet all licensing  
143 requirements for doing business in the State of Mississippi.  
144 Neither the municipality nor any officer or employee of the  
145 municipality shall be liable, civilly or criminally, for any  
146 wrongful or unlawful act or omission of any person or business  
147 with whom the municipality has contracted under the provisions of  
148 this paragraph. The Mississippi Department of Audit shall  
149 establish rules and regulations for use by municipalities in  
150 contracting with persons or businesses under the provisions of  
151 this paragraph. If a municipality uses its own employees to  
152 collect any type of delinquent payment owed to the municipality,  
153 then from and after July 1, 2000, the municipality may charge an  
154 additional fee for collection of the delinquent payment provided  
155 the payment has been delinquent for ninety (90) days. The  
156 collection fee may not exceed fifteen percent (15%) of the  
157 delinquent payment if the collection is made within this state and  
158 may not exceed twenty-five percent (25%) of the delinquent payment  
159 if the collection is made outside this state. In conducting  
160 collection of delinquent payments, the municipality may utilize  
161 credit cards or electronic fund transfers. The municipality may

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

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

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

182 In addition to the authority to expend matching funds under  
183 Section 21-19-65, the governing authorities of any municipality,  
184 in their discretion, may expend municipal funds to match any  
185 state, federal or private funding for any program administered by  
186 the State of Mississippi, the United States government or any  
187 nonprofit organization that is exempt under USCS 501(c)(3) from  
188 paying federal income tax.

189 The powers conferred by this section shall be in addition and  
190 supplemental to the powers conferred by any other law, and nothing  
191 contained in this section shall be construed to prohibit, or to  
192 prescribe conditions concerning, any practice or practices  
193 authorized under any other law.

194 SECTION 2. This act shall take effect and be in force from  
195 and after its passage.