To: Municipalities

MISSISSIPPI LEGISLATURE                        REGULAR SESSION 2001
By: Representative Zuber                        To: Municipalities

HOUSE BILL NO. 1129
(As Sent to Governor)

AN ACT TO AMEND SECTION 21-17-1, MISSISSIPPI CODE OF 1972, TO
AUTHORIZE THE GOVERNING AUTHORITIES OF MUNICIPALITIES WHICH
CONTRACT WITH PRIVATE ATTORNEYS OR COLLECTION AGENCIES TO COLLECT
ANY TYPE OF DELINQUENT PAYMENT OWED TO THE MUNICIPALITY, TO
COLLECT AN ADDITIONAL AMOUNT FOR THE COST INCURRED IN THE
COLLECTION OF THE DELINQUENT PAYMENT AND TO AUTHORIZE
MUNICIPALITIES TO EXPEND FUNDS TO MATCH FEDERAL, STATE OR PRIVATE
FUNDING FOR ANY PROGRAMS ADMINISTERED BY THE STATE OR FEDERAL
GOVERNMENT; AND FOR RELATED PURPOSES.

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

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

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

In case any of the real property belonging to a municipality
shall cease to be used for municipal purposes, the governing
authorities of the municipality may sell, convey or lease the same
on such terms as the municipal authorities may elect. In case of a sale on a credit, the municipality shall charge appropriate interest as contracted and shall have a lien on the same for the purchase money, as against all persons, until paid and may enforce the lien as in such cases provided by law. The deed of conveyance in such cases shall be executed in the name of the municipality by the governing authorities of the municipality pursuant to their order entered on the minutes of their meetings. In any sale or conveyance of real property, the municipality shall retain all mineral rights that it owns, together with the right of ingress and egress to remove same. Before any such lease, deed or conveyance is executed, the governing authorities of the municipality shall publish at least once each week for three (3) consecutive weeks, in a public newspaper of the municipality in which the real property is located, or if no newspaper be published as such, then in a newspaper having general circulation therein, the intention to lease or sell, as the case may be, the municipally owned real property and to accept sealed competitive bids for the leasing or sale. The governing authorities of the municipality shall thereafter accept bids for the lease or sale and shall award the lease or sale to the highest bidder in the manner provided by law. However, whenever the governing authorities of the municipality shall find and determine, by resolution duly and lawfully adopted and spread upon its minutes (a) that any municipally owned real property is no longer needed for municipal or related purposes and is not to be used in the operation of the municipality, (b) that the sale of such property in the manner otherwise provided by law is not necessary or desirable for the financial welfare of the municipality, and (c) that the use of such property for the purpose for which it is to be sold, conveyed or leased will promote and foster the development and improvement of the community in which it is located and the civic, social, educational, cultural, moral,
economic or industrial welfare thereof, the governing authorities of the municipality shall be authorized and empowered, in their discretion, to sell, convey or lease same for any of the purposes set forth herein without having to advertise for and accept competitive bids. In any case in which a municipality proposes to sell, convey or lease real property under the provisions of this section without advertising for and accepting competitive bids, consideration for the purchase, conveyance or lease of the property shall be not less than the average of the fair market price for such property as determined by three (3) professional property appraisers selected by the municipality and approved by the purchaser or lessee. Appraisal fees shall be shared equally by the municipality and the purchaser or lessee.

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

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

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

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

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

The governing authorities of any municipality may contract with a private attorney or private collection agent or agency to collect any type of delinquent payment owed to the municipality including, but not limited to, past due fees and fines. Any such
contract debt may provide for payment contingent upon successful collection efforts or payment based upon a percentage of the delinquent amount collected; however, the entire amount of all delinquent payments collected shall be remitted to the municipality and shall not be reduced by any collection costs or fees. Any private attorney or private collection agent or agency contracting with the municipality under the provisions of this paragraph shall give bond or other surety payable to the municipality in such amount as the governing authorities of the municipality deem sufficient. Any private attorney with whom the municipality contracts under the provisions of this paragraph must be a member in good standing of The Mississippi Bar. Any private collection agent or agency with whom the municipality contracts under the provisions of this paragraph must meet all licensing requirements for doing business in the State of Mississippi. Neither the municipality nor any officer or employee of the municipality shall be liable, civilly or criminally, for any wrongful or unlawful act or omission of any person or business with whom the municipality has contracted under the provisions of this paragraph. The Mississippi Department of Audit shall establish rules and regulations for use by municipalities in contracting with persons or businesses under the provisions of this paragraph. If a municipality uses its own employees to collect any type of delinquent payment owed to the municipality, then from and after July 1, 2000, the municipality may charge an additional fee for collection of the delinquent payment provided the payment has been delinquent for ninety (90) days. The collection fee may not exceed fifteen percent (15%) of the delinquent payment if the collection is made within this state and may not exceed twenty-five percent (25%) of the delinquent payment if the collection is made outside this state. In conducting collection of delinquent payments, the municipality may utilize credit cards or electronic fund transfers. The municipality may
pay any service fees for the use of such methods of collection 
from the collection fee, but not from the delinquent payment.

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

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

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

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

The powers conferred by this section shall be in addition and 
supplemental to the powers conferred by any other law, and nothing 
contained in this section shall be construed to prohibit, or to 
prescribe conditions concerning, any practice or practices 
authorized under any other law.
SECTION 2. This act shall take effect and be in force from and after its passage.