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To: County Affairs; Municipalities

HOUSE BILL NO. 1400

1 AN ACT TO AMEND SECTION 19-7-3, MISSISSIPPI CODE OF 1972, TO
2 AUTHORIZE THE BOARD OF SUPERVISORS TO AUCTION OFF CERTAIN REAL
3 ESTATE OF THE COUNTY; TO AMEND SECTION 21-17-1, MISSISSIPPI CODE
4 OF 1972, TO AUTHORIZE THE GOVERNING AUTHORITIES TO AUCTION OFF
5 CERTAIN REAL ESTATE OF THE MUNICIPALITY; AND FOR RELATED PURPOSES.

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

7 **SECTION 1.** Section 19-7-3, Mississippi Code of 1972, is
8 amended as follows:

9 19-7-3. In case any of the real estate belonging to the
10 county shall cease to be used for county purposes, the board of
11 supervisors may sell, convey or lease the same on such terms as
12 the board may elect and may, in addition, exchange the same for
13 real estate belonging to any other political subdivision located
14 within the county. In case of a sale on a credit, the county
15 shall have a lien on the same for the purchase money, as against
16 all persons, until paid and may enforce the lien as in such cases
17 provided by law. The deed of conveyance in such cases shall be
18 executed in the name of the county by the president of the board
19 of supervisors, pursuant to an order of the board entered on its
20 minutes.

21 Before any lease, deed or conveyance is executed, the board
22 shall publish at least once each week for three (3) consecutive
23 weeks, in a public newspaper of the county in which the land is
24 located, or if no newspaper be published in said county then in a
25 newspaper having general circulation therein, the intention to
26 lease or sell, as the case may be, the county-owned land and to
27 accept sealed competitive bids for the leasing or sale. The board
28 shall thereafter accept bids for the lease or sale and shall award



29 the lease to the highest bidder in the manner provided by law or
30 the board may auction off the land to the highest bidder at a
31 public auction. The board may reserve the right to reject any and
32 all bids. However, whenever the board of supervisors shall find
33 and determine, by resolution duly and lawfully adopted and spread
34 upon its minutes (a) that any county-owned property is no longer
35 needed for county or related purposes and is not to be used in the
36 operation of the county, (b) that the sale of the property in the
37 manner otherwise provided by law is not necessary or desirable for
38 the financial welfare of the county, and (c) that the use of the
39 county property for the purpose for which it is to be sold,
40 conveyed or leased will promote and foster the development and
41 improvement of the community in which it is located and the civic,
42 social, educational, cultural, moral, economic, or industrial
43 welfare thereof, the board of supervisors of such county shall be
44 authorized and empowered, in its discretion, to sell, convey,
45 lease, or otherwise dispose of same for any of the purposes set
46 forth herein.

47 **SECTION 2.** Section 21-17-1, Mississippi Code of 1972, is
48 amended as follows:

49 21-17-1. Every municipality of this state shall be a
50 municipal corporation and shall have power to sue and be sued; to
51 purchase and hold real estate, either within or without the
52 corporate limits, for all proper municipal purposes, including
53 parks, cemeteries, hospitals, schoolhouses, houses of correction,
54 waterworks, electric lights, sewers and other proper municipal
55 purposes; to purchase and hold personal property for all proper
56 municipal purposes; to acquire equipment and machinery by
57 lease-purchase agreement and to pay interest thereon, if
58 contracted, when needed for proper municipal purposes; to sell and
59 convey any real and personal property owned by it, and make such
60 order respecting the same as may be deemed conducive to the best



61 interest of the municipality, and exercise jurisdiction over the
62 same.

63 In case any of the real property belonging to a municipality
64 shall cease to be used for municipal purposes, the governing
65 authorities of the municipality may sell, convey or lease the same
66 on such terms as the municipal authorities may elect. In case of
67 a sale on a credit, the municipality shall charge appropriate
68 interest as contracted and shall have a lien on the same for the
69 purchase money, as against all persons, until paid and may enforce
70 the lien as in such cases provided by law. The deed of conveyance
71 in such cases shall be executed in the name of the municipality by
72 the governing authorities of the municipality pursuant to their
73 order entered on the minutes of their meetings. In any sale or
74 conveyance of real property, the municipality shall retain all
75 mineral rights that it owns, together with the right of ingress
76 and egress to remove same. Before any such lease, deed or
77 conveyance is executed, the governing authorities of the
78 municipality shall publish at least once each week for three (3)
79 consecutive weeks, in a public newspaper of the municipality in
80 which the real property is located, or if no newspaper be
81 published as such, then in a newspaper having general circulation
82 therein, the intention to lease or sell, as the case may be, the
83 municipally owned real property and to accept sealed competitive
84 bids for the leasing or sale. The governing authorities of the
85 municipality shall thereafter accept bids for the lease or sale
86 and shall award the lease or sale to the highest bidder in the
87 manner provided by law or the governing authorities may auction
88 off the land to the highest bidder at a public auction. The
89 governing authorities may reserve the right to reject any and all
90 bids. However, whenever the governing authorities of the
91 municipality shall find and determine, by resolution duly and
92 lawfully adopted and spread upon its minutes (a) that any
93 municipally owned real property is no longer needed for municipal



94 or related purposes and is not to be used in the operation of the
95 municipality, (b) that the sale of such property in the manner
96 otherwise provided by law is not necessary or desirable for the
97 financial welfare of the municipality, and (c) that the use of
98 such property for the purpose for which it is to be sold, conveyed
99 or leased will promote and foster the development and improvement
100 of the community in which it is located and the civic, social,
101 educational, cultural, moral, economic or industrial welfare
102 thereof, the governing authorities of the municipality shall be
103 authorized and empowered, in their discretion, to sell, convey or
104 lease same for any of the purposes set forth herein without having
105 to advertise for and accept competitive bids. In any case in
106 which a municipality proposes to sell, convey or lease real
107 property under the provisions of this section without advertising
108 for and accepting competitive bids, consideration for the
109 purchase, conveyance or lease of the property shall be not less
110 than the average of the fair market price for such property as
111 determined by three (3) professional property appraisers selected
112 by the municipality and approved by the purchaser or lessee.
113 Appraisal fees shall be shared equally by the municipality and the
114 purchaser or lessee.

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

120 (a) The governing authority may donate such lands to a
121 bona fide not-for-profit civic or eleemosynary corporation
122 organized and existing under the laws of the State of Mississippi
123 and granted tax exempt status by the Internal Revenue Service and
124 may donate such lands and necessary funds related thereto to the
125 public school district in which the land is situated for the
126 purposes set forth herein. Any deed or conveyance executed



127 pursuant hereto shall contain a clause of reverter providing that
128 the bona fide not-for-profit corporation or public school district
129 may hold title to such lands only so long as they are continued to
130 be used for the civic, social, educational, cultural, moral,
131 economic or industrial welfare of the community, and that title
132 shall revert to the municipality in the event of the cessation of
133 such use for a period of two (2) years. In any such deed or
134 conveyance, the municipality shall retain all mineral rights that
135 it owns, together with the right of ingress and egress to remove
136 same;

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

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

150 Every municipality shall also be authorized and empowered to
151 loan to private persons or entities, whether organized for profit
152 or nonprofit, funds received from the United States Department of
153 Housing and Urban Development (HUD) under an urban development
154 action grant or a community development block grant under the
155 Housing and Community Development Act of 1974 (Public Law 93-383),
156 as amended, and to charge interest thereon if contracted, provided
157 that no such loan shall include any funds from any revenues other
158 than the funds from the United States Department of Housing and
159 Urban Development; to make all contracts and do all other acts in



160 relation to the property and affairs of the municipality necessary
161 to the exercise of its governmental, corporate and administrative
162 powers; and to exercise such other or further powers as are
163 otherwise conferred by law.

164 The governing authorities of any municipality may contract
165 with a private attorney or private collection agent or agency to
166 collect any type of delinquent payment owed to the municipality,
167 including, but not limited to, past due fees and fines. Any such
168 contract debt may provide for payment contingent upon successful
169 collection efforts or payment based upon a percentage of the
170 delinquent amount collected; however, the entire amount of all
171 delinquent payments collected shall be remitted to the
172 municipality and shall not be reduced by any collection costs or
173 fees. Any private attorney or private collection agent or agency
174 contracting with the municipality under the provisions of this
175 paragraph shall give bond or other surety payable to the
176 municipality in such amount as the governing authorities of the
177 municipality deem sufficient. Any private attorney with whom the
178 municipality contracts under the provisions of this paragraph must
179 be a member in good standing of The Mississippi Bar. Any private
180 collection agent or agency with whom the municipality contracts
181 under the provisions of this paragraph must meet all licensing
182 requirements for doing business in the State of Mississippi.
183 Neither the municipality nor any officer or employee of the
184 municipality shall be liable, civilly or criminally, for any
185 wrongful or unlawful act or omission of any person or business
186 with whom the municipality has contracted under the provisions of
187 this paragraph. The Mississippi Department of Audit shall
188 establish rules and regulations for use by municipalities in
189 contracting with persons or businesses under the provisions of
190 this paragraph. If a municipality uses its own employees to
191 collect any type of delinquent payment owed to the municipality,
192 then from and after July 1, 2000, the municipality may charge an



193 additional fee for collection of the delinquent payment provided
194 the payment has been delinquent for ninety (90) days. The
195 collection fee may not exceed fifteen percent (15%) of the
196 delinquent payment if the collection is made within this state and
197 may not exceed twenty-five percent (25%) of the delinquent payment
198 if the collection is made outside this state. In conducting
199 collection of delinquent payments, the municipality may utilize
200 credit cards or electronic fund transfers. The municipality may
201 pay any service fees for the use of such methods of collection
202 from the collection fee, but not from the delinquent payment.
203 There shall be due to the municipality from any person whose
204 delinquent payment is collected under a contract executed as
205 provided in this subsection an amount, in addition to the
206 delinquent payment, of not to exceed twenty-five percent (25%) of
207 the delinquent payment for collections made within this state, and
208 not to exceed fifty percent (50%) of the delinquent payment for
209 collections made outside of this state.

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

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

221 In addition to the authority to expend matching funds under
222 Section 21-19-65, the governing authorities of any municipality,
223 in their discretion, may expend municipal funds to match any
224 state, federal or private funding for any program administered by
225 the State of Mississippi, the United States government or any



226 nonprofit organization that is exempt under 26 USCS Section
227 501(c)(3) from paying federal income tax.

228 The powers conferred by this section shall be in addition and
229 supplemental to the powers conferred by any other law, and nothing
230 contained in this section shall be construed to prohibit, or to
231 prescribe conditions concerning, any practice or practices
232 authorized under any other law.

233 **SECTION 3.** This act shall take effect and be in force from
234 and after July 1, 2003.

