

By: Representative Fleming

To: Municipalities

HOUSE BILL NO. 52

1 AN ACT TO AUTHORIZE THE GOVERNING AUTHORITIES OF A
2 MUNICIPALITY TO GIVE ABANDONED REAL PROPERTY TO CERTAIN LANDOWNERS
3 WHOSE REAL PROPERTY IS ADJACENT TO THE ABANDONED PROPERTY; TO
4 AMEND SECTIONS 21-19-11 and 21-19-20, MISSISSIPPI CODE OF 1972, IN
5 CONFORMITY THERETO; AND FOR RELATED PURPOSES.

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

7 **SECTION 1.** The governing authorities of any municipality may
8 give abandoned real property within the municipality to the
9 landowner whose real property is adjacent to the real property
10 which has been abandoned. However, no landowner may acquire the
11 abandoned real property for rental or commercial purposes. The
12 governing authorities shall advise the landowner who acquires the
13 abandoned real property that the overall tax value of the property
14 may increase upon reappraisal of the abandoned property.

15 **SECTION 2.** Section 21-19-11, Mississippi Code of 1972, is
16 amended as follows:

17 21-19-11. (1) The governing authority of any municipality
18 is hereby authorized and empowered, on its own motion, or upon the
19 receipt of a petition requesting the municipal authority to so act
20 signed by a majority of the residents residing upon any street or
21 alley within three hundred (300) feet of any parcel of land
22 alleged to be in need of cleaning, to give notice to the property
23 owner by United States registered mail or certified mail two (2)
24 weeks before the date of a hearing, or by service of notice as
25 provided in this section by a police officer at least two (2)
26 weeks before the date of a hearing, or if the property owner be
27 unknown or his address unknown, then by two (2) weeks' notice in a
28 newspaper having a general circulation in the municipality, of a

29 hearing to determine whether or not any parcel of land is in such
30 a state of uncleanliness as to be a menace to the public health
31 and safety of the community. If, at such hearing, the governing
32 authority shall, in its resolution, adjudicate such a parcel of
33 land in its then condition to be a menace to the public health and
34 safety of the community, the governing authority shall, if the
35 owner does not do so himself, proceed to clean the land, by the
36 use of municipal employees or by contract, by cutting weeds;
37 filling cisterns; removing rubbish, dilapidated fences, outside
38 toilets, dilapidated buildings and other debris; and draining
39 cesspools and standing water therefrom. Thereafter, the governing
40 authority may, at its next regular meeting, by resolution
41 adjudicate the actual cost of cleaning the property and may also
42 impose a penalty of Two Hundred Fifty Dollars (\$250.00) or
43 twenty-five percent (25%) of such actual cost, whichever is more.
44 The cost and any penalty may become a civil debt against the
45 property owner, or, at the option of the governing authority, an
46 assessment against the property. The cost assessed against the
47 property means the cost to the municipality of using its own
48 employees to do the work or the cost to the municipality of any
49 contract executed by the municipality to have the work done. The
50 action herein authorized shall not be undertaken against any one
51 (1) parcel of land more than five (5) times in any one (1)
52 calendar year, and the expense of cleaning of said property shall
53 not exceed an aggregate amount of Ten Thousand Dollars
54 (\$10,000.00) per year, or the fair market value of the property
55 subsequent to cleaning, whichever is less. If it is determined by
56 the governing authorities of a municipality that it is necessary
57 to clean a parcel of land more than once within a calendar year,
58 then the municipality may clean such property provided notice to
59 the property owner is given by United States regular mail to the
60 last known address at least ten (10) days before cleaning the
61 property. The governing authorities of a municipality may assess

62 the same penalty for each time they clean as otherwise provided in
63 this section. The penalty provided herein shall not be assessed
64 against the State of Mississippi upon request for reimbursement
65 under Section 29-1-145, nor shall a municipality clean a parcel
66 owned by the State of Mississippi without first giving notice.

67 (2) In the event the governing authority declares, by
68 resolution, that the cost and any penalty shall be collected as a
69 civil debt, the governing authority may authorize the institution
70 of a suit on open account against the owner of the property in a
71 court of competent jurisdiction in the manner provided by law for
72 the cost and any penalty, plus court costs, reasonable attorney's
73 fees and interest from the date that the property was cleaned.

74 (3) In the event that the governing authority does not
75 declare that the cost and any penalty shall be collected as a
76 civil debt, then the assessment above provided for shall be a lien
77 against the property and may be enrolled in the office of the
78 circuit clerk of the county as other judgments are enrolled, and
79 the tax collector of the municipality shall, upon order of the
80 board of governing authorities, proceed to sell the land to
81 satisfy the lien as now provided by law for the sale of lands for
82 delinquent municipal taxes. If the governing authorities
83 determine that the property has been abandoned by the owner of the
84 property, the governing authorities, in lieu of selling the
85 property as provided herein, may allow the landowner whose
86 property is adjacent to the abandoned property to acquire the
87 abandoned property. However, no landowner may acquire the
88 abandoned property for rental or commercial purposes. The
89 governing authorities shall advise the landowner who acquires the
90 abandoned property that the overall tax value of the property may
91 increase upon reappraisal of the abandoned property.

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

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

97 (a) Form of personal notice:

98 "I have this day delivered the within notice
99 personally, by delivering to the within named property
100 owner, _____ (here state name of party
101 summoned), a true copy of this notice.

102 This, the ____ day of _____ 20 ____.

103 _____ (Police Officer)"

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

105 "I have this day delivered the within notice to
106 _____, within named property owner, by
107 leaving a true copy of the same at his (or her) usual
108 place of abode in my municipality, with
109 _____, his (or her) (here insert wife,
110 husband, son, daughter or some other person, as the case
111 may be), _____ a member of his (or her)
112 family above the age of sixteen (16) years, and willing
113 to receive such copy. The said property owner is not
114 found in my municipality.

115 This, the ____ day of _____ 20 ____.

116 _____ (Police Officer)"

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

119 "I have this day attempted to deliver the within
120 notice to _____, the within named property
121 owner, and after diligent search and inquiry, I failed
122 to find the same property owner within my municipality,
123 nor could I ascertain the location of any residence of
124 the property owner within my municipality.

125 This, the ____ day of _____ 20 ____.

126 _____ (Police Officer)"

127 The first mode of notice should be made, if it can be; if
128 not, then the second mode should be made, if it can be; and the
129 return of the second mode of service must negate the officer's
130 ability to make the first. If neither the first nor second mode
131 of service can be made, then the third mode should be made, and
132 the return thereof must negate the officer's ability to make both
133 the first and second. In the event the third mode of service is
134 made, then service shall also be made by publication as provided
135 in subsection (1) of this section.

136 (6) The officer shall mark on all notices the day of the
137 receipt thereof by him, and he shall return the same on or before
138 the day of the hearing, with a written statement of his
139 proceedings thereon. For failing to note the time of the receipt
140 of notice or for failing to return the same, the officer shall
141 forfeit to the party aggrieved the sum of Twenty-five Dollars
142 (\$25.00).

143 **SECTION 3.** Section 21-19-20, Mississippi Code of 1972, is
144 amended as follows:

145 21-19-20. (1) A municipality shall institute proceedings to
146 have abandoned houses or buildings that are used for the sale or
147 use of drugs demolished. The local law enforcement authority of
148 the municipality shall have documented proof of drug sales or use
149 in the abandoned property before a municipality may initiate
150 proceedings to have the property demolished.

151 (2) The municipality shall file a petition to declare the
152 abandoned property a public hazard and nuisance, and to have the
153 property demolished with the circuit clerk of the county in which
154 the property or some part of the property is located. All of the
155 owners of the property involved, and any mortgagee, trustee, or
156 other person having any interest in or lien on the property shall
157 be made defendants to the proceedings. The circuit clerk shall
158 present the petition to the circuit judge who, by written order
159 directed to the circuit clerk, shall fix the time and place for

160 the hearing of the matter in termtime or vacation. The time of
161 the hearing shall be fixed on a date to allow sufficient time for
162 each defendant named to be served with process, as otherwise
163 provided by law, not less than thirty (30) days before the
164 hearing. If a defendant or other party in interest is not served
165 for the specified time before the date fixed, the hearing shall be
166 continued to a day certain to allow the thirty-day period
167 specified.

168 (3) Any cost incurred by a municipality for demolishing
169 abandoned property shall be paid by the owners of the property.
170 The governing authorities may allow landowners whose property is
171 adjacent to the abandoned property to acquire the property in the
172 manner provided in House Bill No. , 2004 Regular Session.

173 **SECTION 4.** This act shall take effect and be in force from
174 and after July 1, 2004.