

By: Representative Robinson (84th)

To: Municipalities

HOUSE BILL NO. 502

1 AN ACT TO AMEND SECTION 21-17-1, MISSISSIPPI CODE OF 1972, TO
2 AUTHORIZE THE GOVERNING AUTHORITIES OF ANY MUNICIPALITY TO
3 CONTRACT FOR THE PROFESSIONAL SERVICES OF A MISSISSIPPI LICENSED
4 REAL ESTATE BROKER TO SELL AND COLLECT A COMMISSION FOR THE SALE
5 OF THE SURPLUS PROPERTIES OF THE MUNICIPALITY; AND FOR RELATED
6 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. (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 (2) In case any of the real property belonging to a
25 municipality shall cease to be used for municipal purposes, the
26 governing authorities of the municipality may sell, convey or
27 lease the same on such terms as the municipal authorities may
28 elect. In case of a sale on a credit, the municipality shall
29 charge appropriate interest as contracted and shall have a lien on

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

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

74 If the governing authorities of any municipality determine to
75 sell, convey, lease or otherwise alter the present use of any land
76 or real property, including all structures, buildings, warehouses
77 or other appurtenances on such property, the governing authorities
78 of the municipality may contract for the professional services of
79 a Mississippi licensed real estate broker, may avert the otherwise
80 required advertising and bid process on the property and, instead
81 of such advertising and bid process, may allow the broker or his
82 agent, or both, to assist the municipality in the marketing and
83 sale or lease of the real property for a reasonable commission
84 from the sale or lease proceeds for services rendered.

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

90 (a) The governing authority may donate such lands to a
91 bona fide not-for-profit civic or eleemosynary corporation
92 organized and existing under the laws of the State of Mississippi
93 and granted tax exempt status by the Internal Revenue Service and
94 may donate such lands and necessary funds related thereto to the
95 public school district in which the land is situated for the

96 purposes set forth herein. Any deed or conveyance executed
97 pursuant hereto shall contain a clause of reverter providing that
98 the bona fide not-for-profit corporation or public school district
99 may hold title to such lands only so long as they are continued to
100 be used for the civic, social, educational, cultural, moral,
101 economic or industrial welfare of the community, and that title
102 shall revert to the municipality in the event of the cessation of
103 such use for a period of two (2) years. In any such deed or
104 conveyance, the municipality shall retain all mineral rights that
105 it owns, together with the right of ingress and egress to remove
106 same;

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

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

120 (d) Nothing contained in this subsection (3) shall be
121 construed to prohibit, restrict or to prescribe conditions with
122 regard to the authority granted under Section 17-25-3.

123 (4) Every municipality shall also be authorized and empowered
124 to loan to private persons or entities, whether organized for
125 profit or nonprofit, funds received from the United States
126 Department of Housing and Urban Development (HUD) under an urban
127 development action grant or a community development block grant
128 under the Housing and Community Development Act of 1974 (Public

129 Law 93-383), as amended, and to charge interest thereon if
130 contracted, provided that no such loan shall include any funds
131 from any revenues other than the funds from the United States
132 Department of Housing and Urban Development; to make all contracts
133 and do all other acts in relation to the property and affairs of
134 the municipality necessary to the exercise of its governmental,
135 corporate and administrative powers; and to exercise such other or
136 further powers as are otherwise conferred by law.

137 (5) The governing authorities of any municipality may
138 contract with a private attorney or private collection agent or
139 agency to collect any type of delinquent payment owed to the
140 municipality, including, but not limited to, past due fees and
141 fines. Any such contract debt may provide for payment contingent
142 upon successful collection efforts or payment based upon a
143 percentage of the delinquent amount collected; however, the entire
144 amount of all delinquent payments collected shall be remitted to
145 the municipality and shall not be reduced by any collection costs
146 or fees. Any private attorney or private collection agent or
147 agency contracting with the municipality under the provisions of
148 this subsection shall give bond or other surety payable to the
149 municipality in such amount as the governing authorities of the
150 municipality deem sufficient. Any private attorney with whom the
151 municipality contracts under the provisions of this subsection
152 must be a member in good standing of The Mississippi Bar. Any
153 private collection agent or agency with whom the municipality
154 contracts under the provisions of this subsection must meet all
155 licensing requirements for doing business in the State of
156 Mississippi. Neither the municipality nor any officer or employee
157 of the municipality shall be liable, civilly or criminally, for
158 any wrongful or unlawful act or omission of any person or business
159 with whom the municipality has contracted under the provisions of
160 this subsection. The Mississippi Department of Audit shall
161 establish rules and regulations for use by municipalities in

162 contracting with persons or businesses under the provisions of
163 this subsection. If a municipality uses its own employees to
164 collect any type of delinquent payment owed to the municipality,
165 then from and after July 1, 2000, the municipality may charge an
166 additional fee for collection of the delinquent payment provided
167 the payment has been delinquent for ninety (90) days. The
168 collection fee may not exceed fifteen percent (15%) of the
169 delinquent payment if the collection is made within this state and
170 may not exceed twenty-five percent (25%) of the delinquent payment
171 if the collection is made outside this state. In conducting
172 collection of delinquent payments, the municipality may utilize
173 credit cards or electronic fund transfers. The municipality may
174 pay any service fees for the use of such methods of collection
175 from the collection fee, but not from the delinquent payment.
176 There shall be due to the municipality from any person whose
177 delinquent payment is collected under a contract executed as
178 provided in this subsection an amount, in addition to the
179 delinquent payment, of not to exceed twenty-five percent (25%) of
180 the delinquent payment for collections made within this state, and
181 not to exceed fifty percent (50%) of the delinquent payment for
182 collections made outside of this state.

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

189 (7) The governing authorities of any municipality may, in
190 its discretion, donate personal property or funds to the public
191 school district or districts located in the municipality for the
192 promotion of educational programs of the district or districts
193 within the municipality.

194 (8) In addition to the authority to expend matching funds
195 under Section 21-19-65, the governing authorities of any
196 municipality, in their discretion, may expend municipal funds to
197 match any state, federal or private funding for any program
198 administered by the State of Mississippi, the United States
199 government or any nonprofit organization that is exempt under 26
200 USCS Section 501(c)(3) from paying federal income tax.

201 (9) The powers conferred by this section shall be in
202 addition and supplemental to the powers conferred by any other
203 law, and nothing contained in this section shall be construed to
204 prohibit, or to prescribe conditions concerning, any practice or
205 practices authorized under any other law.

206 **SECTION 2.** This act shall take effect and be in force from
207 and after July 1, 2004.