

By: Representatives Morris, Myers

To: Municipalities

HOUSE BILL NO. 606
(As Sent to Governor)

1 AN ACT TO AMEND SECTION 21-17-1, MISSISSIPPI CODE OF 1972, TO
2 PERMIT A MUNICIPALITY TO ENGAGE A REALTOR TO SELL SURPLUS REAL
3 PROPERTY AND BE PAID A COMMISSION FOR SERVICES RENDERED, AND TO
4 AUTHORIZE MUNICIPALITIES TO ESTABLISH AN EMPLOYER-ASSISTED HOUSING
5 PROGRAM TO ASSIST EMPLOYEES WHEN PURCHASING A HOME; AND FOR
6 RELATED 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) (a) In case any of the real property belonging to a
25 municipality shall cease to be used for municipal purposes, the
26 governing authority of the municipality may sell, convey or lease
27 the same on such terms as the municipal authority may elect. In
28 case of a sale on a credit, the municipality shall charge
29 appropriate interest as contracted and shall have a lien on the

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

63 lease same for any of the purposes set forth herein without having
64 to advertise for and accept competitive bids.

65 **(b)** In any case in which a municipality proposes to
66 sell, convey or lease real property under the provisions of this
67 subsection (2) without advertising for and accepting competitive
68 bids, the governing authority may sell, convey or lease the
69 property as follows:

70 **(i)** Consideration for the purchase, conveyance or
71 lease of the property shall be not less than the average of the
72 fair market price for such property as determined by three (3)
73 professional property appraisers selected by the municipality and
74 approved by the purchaser or lessee. Appraisal fees shall be
75 shared equally by the municipality and the purchaser or lessee; or

76 **(ii)** The governing authority of a municipality may
77 contract for the professional services of a Mississippi licensed
78 real estate broker to assist the municipality in the marketing and
79 sale or lease of the property, and may provide the broker
80 reasonable compensation for services rendered to be paid from the
81 sale or lease proceeds. The reasonable compensation shall not
82 exceed the usual and customary compensation for similar services
83 within the municipality.

84 **(3)** Whenever the governing authority of the municipality
85 shall find and determine by resolution duly and lawfully adopted
86 and spread upon the minutes that municipally owned real property
87 is not used for municipal purposes and therefore surplus as set
88 forth in subsection (2) of this section:

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

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

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

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

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

122 (4) Every municipality shall also be authorized and
123 empowered to loan to private persons or entities, whether
124 organized for profit or nonprofit, funds received from the United
125 States Department of Housing and Urban Development (HUD) under an
126 urban development action grant or a community development block
127 grant under the Housing and Community Development Act of 1974
128 (Public Law 93-383), as amended, and to charge interest thereon if

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

136 (5) (a) The governing authority of any municipality may
137 establish an employer-assisted housing program to provide funds to
138 eligible employees to be used toward the purchase of a home. This
139 assistance may be applied toward the down payment, closing costs
140 or any other fees or costs associated with the purchase of a home.
141 The housing assistance may be in the form of a grant, forgivable
142 loan or repayable loan. The governing authority of a municipality
143 may contract with one or more public or private entities to
144 provide assistance in implementing and administering the program
145 and shall adopt rules and regulations regarding the eligibility of
146 a municipality for the program and for the implementation and
147 administration of the program. However, no general funds of a
148 municipality may be used for a grant or loan under the program.

149 (b) Participation in the program established under this
150 subsection (5) shall be available to any eligible municipal
151 employee as determined by the governing authority of the
152 municipality. Any person who receives financial assistance under
153 the program must purchase a house and reside within certain
154 geographic boundaries as determined by the governing authority of
155 the municipality.

156 (c) If the assistance authorized under this subsection
157 (5) is structured as a forgivable loan, the participating employee
158 must remain as an employee of the municipality for an agreed upon
159 period of time, as determined by the rules and regulations adopted
160 by the governing authority of the municipality, in order to have
161 the loan forgiven. The forgiveness structure, amount of

162 assistance and repayment terms shall be determined by the
163 governing authority of the municipality.

164 (6) The governing authority 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 subsection shall give bond or other surety payable to the
176 municipality in such amount as the governing authority of the
177 municipality deems sufficient. Any private attorney with whom the
178 municipality contracts under the provisions of this subsection
179 must be a member in good standing of The Mississippi Bar. Any
180 private collection agent or agency with whom the municipality
181 contracts under the provisions of this subsection must meet all
182 licensing requirements for doing business in the State of
183 Mississippi. Neither the municipality nor any officer or employee
184 of the municipality shall be liable, civilly or criminally, for
185 any wrongful or unlawful act or omission of any person or business
186 with whom the municipality has contracted under the provisions of
187 this subsection. 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 subsection. 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 (7) In addition to such authority as is otherwise granted
211 under this section, the governing authority of any municipality
212 may 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 (8) The governing authority 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 (9) In addition to the authority to expend matching funds
222 under Section 21-19-65, the governing authority of any
223 municipality, in its discretion, may expend municipal funds to
224 match any state, federal or private funding for any program
225 administered by the State of Mississippi, the United States
226 government or any nonprofit organization that is exempt under 26
227 USCS Section 501(c)(3) from paying federal income tax.

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

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