

By: Representatives Robinson (63rd),  
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To: Municipalities

HOUSE BILL NO. 716

1 AN ACT TO AMEND SECTION 21-17-1, MISSISSIPPI CODE OF 1972, TO  
2 PROVIDE THAT GOVERNING AUTHORITIES OF ANY MUNICIPALITY WITH  
3 SURPLUS REAL PROPERTY MAY CONTRACT FOR THE PROFESSIONAL SERVICES  
4 OF A MISSISSIPPI LICENSED REAL ESTATE BROKER AND TO PROVIDE  
5 REASONABLE COMPENSATION FOR SERVICES RENDERED BY THE REAL ESTATE  
6 BROKER; AND FOR 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) 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 in this section, before any such  
39 lease, deed or conveyance is executed, the governing authorities  
40 of the municipality shall publish at least once each week for  
41 three (3) consecutive weeks, in a public newspaper of the  
42 municipality in which the real property is located, or if no  
43 newspaper be published as such, then in a newspaper having general  
44 circulation therein, the intention to lease or sell, as the case  
45 may be, the municipally owned real property and to accept sealed  
46 competitive bids for the leasing or sale. The governing  
47 authorities of the municipality shall thereafter accept bids for  
48 the lease or sale and shall award the lease or sale to the highest  
49 bidder in the manner provided by law. However, whenever the  
50 governing authorities of the municipality shall find and  
51 determine, by resolution duly and lawfully adopted and spread upon  
52 its minutes (a) that any municipally owned real property is no  
53 longer needed for municipal or related purposes and is not to be  
54 used in the operation of the municipality, (b) that the sale of  
55 such property in the manner otherwise provided by law is not  
56 necessary or desirable for the financial welfare of the  
57 municipality, and (c) that the use of such property for the  
58 purpose for which it is to be sold, conveyed or leased will  
59 promote and foster the development and improvement of the  
60 community in which it is located and the civic, social,  
61 educational, cultural, moral, economic or industrial welfare  
62 thereof, the governing authorities of the municipality shall be

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

75 The governing authorities of any municipality may contract  
76 for the professional services of a Mississippi licensed real  
77 estate broker and may provide the broker reasonable compensation  
78 for services rendered.

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

84 (a) The governing authority may donate such lands to a  
85 bona fide not-for-profit civic or eleemosynary corporation  
86 organized and existing under the laws of the State of Mississippi  
87 and granted tax exempt status by the Internal Revenue Service and  
88 may donate such lands and necessary funds related thereto to the  
89 public school district in which the land is situated for the  
90 purposes set forth herein. Any deed or conveyance executed  
91 pursuant hereto shall contain a clause of reverter providing that  
92 the bona fide not-for-profit corporation or public school district  
93 may hold title to such lands only so long as they are continued to  
94 be used for the civic, social, educational, cultural, moral,  
95 economic or industrial welfare of the community, and that title

96 shall revert to the municipality in the event of the cessation of  
97 such use for a period of two (2) years. In any such deed or  
98 conveyance, the municipality shall retain all mineral rights that  
99 it owns, together with the right of ingress and egress to remove  
100 same;

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

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

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

117 (4) Every municipality shall also be authorized and  
118 empowered to loan to private persons or entities, whether  
119 organized for profit or nonprofit, funds received from the United  
120 States Department of Housing and Urban Development (HUD) under an  
121 urban development action grant or a community development block  
122 grant under the Housing and Community Development Act of 1974  
123 (Public Law 93-383), as amended, and to charge interest thereon if  
124 contracted, provided that no such loan shall include any funds  
125 from any revenues other than the funds from the United States  
126 Department of Housing and Urban Development; to make all contracts  
127 and do all other acts in relation to the property and affairs of  
128 the municipality necessary to the exercise of its governmental,

129 corporate and administrative powers; and to exercise such other or  
130 further powers as are otherwise conferred by law.

131 (5) The governing authorities of any municipality may  
132 contract with a private attorney or private collection agent or  
133 agency to collect any type of delinquent payment owed to the  
134 municipality, including, but not limited to, past due fees and  
135 fines. Any such contract debt may provide for payment contingent  
136 upon successful collection efforts or payment based upon a  
137 percentage of the delinquent amount collected; however, the entire  
138 amount of all delinquent payments collected shall be remitted to  
139 the municipality and shall not be reduced by any collection costs  
140 or fees. Any private attorney or private collection agent or  
141 agency contracting with the municipality under the provisions of  
142 this subsection shall give bond or other surety payable to the  
143 municipality in such amount as the governing authorities of the  
144 municipality deem sufficient. Any private attorney with whom the  
145 municipality contracts under the provisions of this subsection  
146 must be a member in good standing of The Mississippi Bar. Any  
147 private collection agent or agency with whom the municipality  
148 contracts under the provisions of this subsection must meet all  
149 licensing requirements for doing business in the State of  
150 Mississippi. Neither the municipality nor any officer or employee  
151 of the municipality shall be liable, civilly or criminally, for  
152 any wrongful or unlawful act or omission of any person or business  
153 with whom the municipality has contracted under the provisions of  
154 this subsection. The Mississippi Department of Audit shall  
155 establish rules and regulations for use by municipalities in  
156 contracting with persons or businesses under the provisions of  
157 this subsection. If a municipality uses its own employees to  
158 collect any type of delinquent payment owed to the municipality,  
159 then from and after July 1, 2000, the municipality may charge an  
160 additional fee for collection of the delinquent payment provided  
161 the payment has been delinquent for ninety (90) days. The

162 collection fee may not exceed fifteen percent (15%) of the  
163 delinquent payment if the collection is made within this state and  
164 may not exceed twenty-five percent (25%) of the delinquent payment  
165 if the collection is made outside this state. In conducting  
166 collection of delinquent payments, the municipality may utilize  
167 credit cards or electronic fund transfers. The municipality may  
168 pay any service fees for the use of such methods of collection  
169 from the collection fee, but not from the delinquent payment.  
170 There shall be due to the municipality from any person whose  
171 delinquent payment is collected under a contract executed as  
172 provided in this subsection an amount, in addition to the  
173 delinquent payment, of not to exceed twenty-five percent (25%) of  
174 the delinquent payment for collections made within this state, and  
175 not to exceed fifty percent (50%) of the delinquent payment for  
176 collections made outside of this state.

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

183 (7) The governing authorities of any municipality may, in  
184 its discretion, donate personal property or funds to the public  
185 school district or districts located in the municipality for the  
186 promotion of educational programs of the district or districts  
187 within the municipality.

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

195           (9) The powers conferred by this section shall be in  
196 addition and supplemental to the powers conferred by any other  
197 law, and nothing contained in this section shall be construed to  
198 prohibit, or to prescribe conditions concerning, any practice or  
199 practices authorized under any other law.

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