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To: Municipalities

COMMITTEE SUBSTITUTE
FOR
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. The reasonable compensation provided shall
79 not exceed the usual and customary compensation for similar
80 services within the municipality.

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

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

96 be used for the civic, social, educational, cultural, moral,
97 economic or industrial welfare of the community, and that title
98 shall revert to the municipality in the event of the cessation of
99 such use for a period of two (2) years. In any such deed or
100 conveyance, the municipality shall retain all mineral rights that
101 it owns, together with the right of ingress and egress to remove
102 same;

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

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

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

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

129 and do all other acts in relation to the property and affairs of
130 the municipality necessary to the exercise of its governmental,
131 corporate and administrative powers; and to exercise such other or
132 further powers as are otherwise conferred by law.

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

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

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

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

190 (8) In addition to the authority to expend matching funds
191 under Section 21-19-65, the governing authorities of any
192 municipality, in their discretion, may expend municipal funds to
193 match any state, federal or private funding for any program
194 administered by the State of Mississippi, the United States

195 government or any nonprofit organization that is exempt under 26
196 USCS Section 501(c)(3) from paying federal income tax.

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

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