

By: Senator(s) Carmichael, Flowers, Jordan,  
Butler

To: Municipalities

SENATE BILL NO. 2171

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 FOR  
4 RELATED PURPOSES.

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

6 **SECTION 1.** Section 21-17-1, Mississippi Code of 1972, is  
7 amended as follows:

8 21-17-1. (1) Every municipality of this state shall be a  
9 municipal corporation and shall have power to sue and be sued; to  
10 purchase and hold real estate, either within or without the  
11 corporate limits, for all proper municipal purposes, including  
12 parks, cemeteries, hospitals, schoolhouses, houses of correction,  
13 waterworks, electric lights, sewers and other proper municipal  
14 purposes; to purchase and hold personal property for all proper  
15 municipal purposes; to acquire equipment and machinery by  
16 lease-purchase agreement and to pay interest thereon, if  
17 contracted, when needed for proper municipal purposes; to sell and  
18 convey any real and personal property owned by it, and make such  
19 order respecting the same as may be deemed conducive to the best  
20 interest of the municipality, and exercise jurisdiction over the  
21 same.

22 (2) (a) In case any of the real property belonging to a  
23 municipality shall cease to be used for municipal purposes, the  
24 governing authority of the municipality may sell, convey or lease  
25 the same on such terms as the municipal authority may elect. In  
26 case of a sale on a credit, the municipality shall charge  
27 appropriate interest as contracted and shall have a lien on the  
28 same for the purchase money, as against all persons, until paid

29 and may enforce the lien as in such cases provided by law. The  
30 deed of conveyance in such cases shall be executed in the name of  
31 the municipality by the governing authority of the municipality  
32 pursuant to an order entered on the minutes \* \* \*. In any sale or  
33 conveyance of real property, the municipality shall retain all  
34 mineral rights that it owns, together with the right of ingress  
35 and egress to remove same. Before any such lease, deed or  
36 conveyance is executed, the governing authority of the  
37 municipality shall publish at least once each week for three (3)  
38 consecutive weeks, in a public newspaper of the municipality in  
39 which the real property is located, or if no newspaper be  
40 published as such, then in a newspaper having general circulation  
41 therein, the intention to lease or sell, as the case may be, the  
42 municipally owned real property and to accept sealed competitive  
43 bids for the leasing or sale. The governing authority of the  
44 municipality shall thereafter accept bids for the lease or sale  
45 and shall award the lease or sale to the highest bidder in the  
46 manner provided by law. However, whenever the governing authority  
47 of the municipality shall find and determine, by resolution duly  
48 and lawfully adopted and spread upon its minutes (i) that any  
49 municipally owned real property is no longer needed for municipal  
50 or related purposes and is not to be used in the operation of the  
51 municipality, (ii) that the sale of such property in the manner  
52 otherwise provided by law is not necessary or desirable for the  
53 financial welfare of the municipality, and (iii) that the use of  
54 such property for the purpose for which it is to be sold, conveyed  
55 or leased will promote and foster the development and improvement  
56 of the community in which it is located and the civic, social,  
57 educational, cultural, moral, economic or industrial welfare  
58 thereof, the governing authority of the municipality shall be  
59 authorized and empowered, in its discretion, to sell, convey or  
60 lease same for any of the purposes set forth herein without having  
61 to advertise for and accept competitive bids.

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

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

73           (ii) The municipality may contract for the  
74 professional services of a Mississippi-licensed real estate broker  
75 to assist the municipality in the marketing and sale or lease of  
76 the property for a reasonable commission for services rendered to  
77 be paid from the sale or lease proceeds.

78           (3) Whenever the governing authority of the municipality  
79 shall find and determine by resolution duly and lawfully adopted  
80 and spread upon the minutes that municipally owned real property  
81 is not used for municipal purposes and therefore surplus as set  
82 forth in subsection (2)(a)(i), (ii) and (iii) of this section:

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

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

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

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

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

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

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

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

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

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

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

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

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

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