

By: Senator(s) Frazier

To: Municipalities

SENATE BILL NO. 2940

1 AN ACT TO AMEND SECTION 21-17-1, MISSISSIPPI CODE OF 1972, TO
2 AUTHORIZE MUNICIPALITIES TO ESTABLISH AN EMPLOYER-ASSISTED HOUSING
3 PROGRAM TO ASSIST EMPLOYEES WHEN PURCHASING A HOME; 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) In case any of the real property belonging to a
23 municipality shall cease to be used for municipal purposes, the
24 governing authorities of the municipality may sell, convey or
25 lease the same on such terms as the municipal authorities may
26 elect. In case of a sale on a credit, the municipality shall
27 charge appropriate interest as contracted and shall have a lien on
28 the same for the purchase money, as against all persons, until

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

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

72 (3) Whenever the governing authorities of the municipality
73 shall find and determine by resolution duly and lawfully adopted
74 and spread upon the minutes that municipally owned real property
75 is not used for municipal purposes and therefore surplus as set
76 forth hereinabove:

77 (a) The governing authority may donate such lands to a
78 bona fide not-for-profit civic or eleemosynary corporation
79 organized and existing under the laws of the State of Mississippi
80 and granted tax exempt status by the Internal Revenue Service and
81 may donate such lands and necessary funds related thereto to the
82 public school district in which the land is situated for the
83 purposes set forth herein. Any deed or conveyance executed
84 pursuant hereto shall contain a clause of reverter providing that
85 the bona fide not-for-profit corporation or public school district
86 may hold title to such lands only so long as they are continued to
87 be used for the civic, social, educational, cultural, moral,
88 economic or industrial welfare of the community, and that title
89 shall revert to the municipality in the event of the cessation of
90 such use for a period of two (2) years. In any such deed or
91 conveyance, the municipality shall retain all mineral rights that
92 it owns, together with the right of ingress and egress to remove
93 same;

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

101 (c) In the event the governing authority does not wish
102 to donate title to such lands to the bona fide not-for-profit
103 civic or eleemosynary corporation, but wishes to retain title to
104 the lands, the governing authority may lease the lands to a bona
105 fide not-for-profit corporation described in paragraph (a) or (b)
106 for less than fair market value;

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

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

124 (5) (a) The governing authorities of any municipality may
125 establish an employer-assisted housing program to provide funds to
126 eligible employees to be used toward the purchase of a home. This

127 assistance may be applied toward the down payment, closing cost or
128 any other fees or costs associated with the purchase of a home.
129 The housing assistance may be in the form of a grant, forgivable
130 loan or repayable loan. The program shall be administered by the
131 municipality in conjunction with Fannie Mae. The governing
132 authorities of a municipality may contract with one or more public
133 or private entities to provide assistance in implementing and
134 administering the program and shall adopt rules and regulations
135 regarding the eligibility of a municipality for the program and
136 for the implementation and administration of the program.

137 (b) Participation in the program established under this
138 subsection shall be available to any eligible municipal employee
139 as determined by the governing authorities of the municipality.
140 Any person who receives financial assistance under the program
141 must purchase a house and reside within certain geographic
142 boundaries as determined by the governing authorities of the
143 municipality.

144 (c) If the assistance authorized under this subsection
145 is structured as a forgivable loan, the participating employee
146 must remain as an employee of the municipality for an agreed-upon
147 period of time, as determined by the rules and regulations adopted
148 by the governing authorities of the municipalities, in order to
149 have the loan forgiven. The forgiveness structure, amount of
150 assistance and repayment terms shall be determined by the
151 governing authorities of the municipality.

152 (6) The governing authorities of any municipality may
153 contract with a private attorney or private collection agent or
154 agency to collect any type of delinquent payment owed to the
155 municipality, including, but not limited to, past due fees and
156 finances. Any such contract debt may provide for payment contingent
157 upon successful collection efforts or payment based upon a
158 percentage of the delinquent amount collected; however, the entire
159 amount of all delinquent payments collected shall be remitted to

160 the municipality and shall not be reduced by any collection costs
161 or fees. Any private attorney or private collection agent or
162 agency contracting with the municipality under the provisions of
163 this subsection shall give bond or other surety payable to the
164 municipality in such amount as the governing authorities of the
165 municipality deem sufficient. Any private attorney with whom the
166 municipality contracts under the provisions of this subsection
167 must be a member in good standing of The Mississippi Bar. Any
168 private collection agent or agency with whom the municipality
169 contracts under the provisions of this subsection must meet all
170 licensing requirements for doing business in the State of
171 Mississippi. Neither the municipality nor any officer or employee
172 of the municipality shall be liable, civilly or criminally, for
173 any wrongful or unlawful act or omission of any person or business
174 with whom the municipality has contracted under the provisions of
175 this subsection. The Mississippi Department of Audit shall
176 establish rules and regulations for use by municipalities in
177 contracting with persons or businesses under the provisions of
178 this subsection. If a municipality uses its own employees to
179 collect any type of delinquent payment owed to the municipality,
180 then from and after July 1, 2000, the municipality may charge an
181 additional fee for collection of the delinquent payment provided
182 the payment has been delinquent for ninety (90) days. The
183 collection fee may not exceed fifteen percent (15%) of the
184 delinquent payment if the collection is made within this state and
185 may not exceed twenty-five percent (25%) of the delinquent payment
186 if the collection is made outside this state. In conducting
187 collection of delinquent payments, the municipality may utilize
188 credit cards or electronic fund transfers. The municipality may
189 pay any service fees for the use of such methods of collection
190 from the collection fee, but not from the delinquent payment.
191 There shall be due to the municipality from any person whose
192 delinquent payment is collected under a contract executed as

193 provided in this subsection an amount, in addition to the
194 delinquent payment, of not to exceed twenty-five percent (25%) of
195 the delinquent payment for collections made within this state, and
196 not to exceed fifty percent (50%) of the delinquent payment for
197 collections made outside of this state.

198 (7) In addition to such authority as is otherwise granted
199 under this section, the governing authorities of any municipality
200 may expend funds necessary to maintain and repair, and to purchase
201 liability insurance, tags and decals for, any personal property
202 acquired under the Federal Excess Personal Property Program that
203 is used by the local volunteer fire department.

204 (8) The governing authorities of any municipality may, in
205 its discretion, donate personal property or funds to the public
206 school district or districts located in the municipality for the
207 promotion of educational programs of the district or districts
208 within the municipality.

209 (9) In addition to the authority to expend matching funds
210 under Section 21-19-65, the governing authorities of any
211 municipality, in their discretion, may expend municipal funds to
212 match any state, federal or private funding for any program
213 administered by the State of Mississippi, the United States
214 government or any nonprofit organization that is exempt under 26
215 USCS Section 501(c)(3) from paying federal income tax.

216 (10) The powers conferred by this section shall be in
217 addition and supplemental to the powers conferred by any other
218 law, and nothing contained in this section shall be construed to
219 prohibit, or to prescribe conditions concerning, any practice or
220 practices authorized under any other law.

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