

By: Representative Brown

To: Municipalities

COMMITTEE SUBSTITUTE  
FOR  
HOUSE BILL NO. 1019

1 AN ACT TO AMEND SECTION 21-19-11, MISSISSIPPI CODE OF 1972,  
2 TO INCREASE THE PENALTIES AND COSTS WHICH MAY BE ASSESSED AGAINST  
3 OWNERS OF PROPERTY OR LAND WITHIN MUNICIPALITIES WHO FAIL TO KEEP  
4 THEIR PROPERTY OR LAND CLEAN, TO THE EXTENT THAT SUCH FAILURE  
5 RESULTS IN THE PROPERTY OR LAND BEING A MENACE TO THE PUBLIC  
6 HEALTH AND SAFETY OF THE COMMUNITY; TO ALLOW MUNICIPALITIES TO  
7 ENACT CRIMINAL PENALTIES FOR FAILURE TO MAINTAIN PROPERTY; TO  
8 AMEND SECTION 21-19-20, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT  
9 A MUNICIPALITY SHALL INSTITUTE PROCEEDINGS TO HAVE AN ABANDONED  
10 HOUSE OR BUILDING DEMOLISHED, IF IT DETERMINES THAT THE HOUSE OR  
11 BUILDING CONSTITUTES A PUBLIC HAZARD AND NUISANCE; TO PROVIDE THAT  
12 A MAJORITY OF THE RESIDENTS RESIDING WITHIN 400 FEET OF THE  
13 PROPERTY MAY PETITION THE MUNICIPALITY TO HOLD A HEARING ON THE  
14 QUESTION OF WHETHER THE PROPERTY SHOULD BE DEMOLISHED; TO REQUIRE  
15 THE MUNICIPALITY TO NOTIFY THE PROPERTY OWNER OF THE HEARING BY  
16 UNITED STATES MAIL OR BY TWO WEEKS NOTICE IN A NEWSPAPER HAVING A  
17 GENERAL CIRCULATION IN THE STATE; AND FOR RELATED PURPOSES.

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

19 **SECTION 1.** Section 21-19-11, Mississippi Code of 1972, is  
20 amended as follows:

21 21-19-11. (1) The governing authority of any municipality  
22 is \* \* \* authorized \* \* \*, on its own motion, or upon the receipt  
23 of a petition requesting the municipal authority to so act signed  
24 by a majority of the residents residing \* \* \* within four hundred  
25 (400) feet of any property or parcel of land alleged to be in need  
26 of cleaning, to give notice to the property owner by United  
27 States \* \* \* mail two (2) weeks before the date of a hearing, or  
28 by service of notice as provided in this section by a police  
29 officer at least two (2) weeks before the date of a hearing, or if  
30 the property owner \* \* \* or his address is unknown, then by two  
31 (2) weeks' notice in a newspaper having a general circulation in  
32 the municipality, of a hearing to determine whether or not the  
33 property or land is in such a state of uncleanliness as to be a  
34 menace to the public health and safety of the community. If, at

35 such hearing, the governing authority shall, \* \* \* adjudicate the  
36 property or land in its then condition to be a menace to the  
37 public health and safety of the community, the governing authority  
38 shall, if the owner does not do so himself, proceed to clean the  
39 land, by the use of municipal employees or by contract, by cutting  
40 weeds; filling cisterns; removing rubbish, dilapidated fences,  
41 outside toilets, dilapidated buildings and other debris; and  
42 draining cesspools and standing water therefrom. Thereafter, the  
43 governing authority may, at its next regular meeting, by  
44 resolution adjudicate the actual cost of cleaning the property and  
45 may also impose a penalty of One Thousand Five Hundred (\$1,500.00)  
46 or fifty percent (50%) of such actual cost, whichever is more.  
47 The cost and any penalty may become a civil debt against the  
48 property owner, or, at the option of the governing authority, an  
49 assessment against the property. The cost assessed against the  
50 property means the cost to the municipality of using its own  
51 employees to do the work or the cost to the municipality of any  
52 contract executed by the municipality to have the work done. The  
53 action herein authorized shall not be undertaken against any one  
54 (1) parcel of land more than six (6) times in any one (1) calendar  
55 year, and the expense of cleaning of said property shall not  
56 exceed an aggregate amount of Twenty Thousand Dollars (\$20,000.00)  
57 per year, or the fair market value of the property subsequent to  
58 cleaning, whichever is less. If it is determined by the governing  
59 authority that it is necessary to clean any property or land more  
60 than once within a calendar year, then the municipality may clean  
61 it provided notice to the property owner is given by United States  
62 regular mail to the last known address at least ten (10) days  
63 before cleaning the property. The governing authority may assess  
64 the same penalty for each time the property or land is cleaned as  
65 otherwise provided in this section. The penalty provided herein  
66 shall not be assessed against the State of Mississippi upon  
67 request for reimbursement under Section 29-1-145, nor shall a

68 municipality clean a parcel owned by the State of Mississippi  
69 without first giving notice.

70 (2) In the event the governing authority declares, by  
71 resolution, that the cost and any penalty shall be collected as a  
72 civil debt, the governing authority may authorize the institution  
73 of a suit on open account against the owner of the property in a  
74 court of competent jurisdiction in the manner provided by law for  
75 the cost and any penalty, plus court costs, reasonable attorney's  
76 fees and interest from the date that the property was cleaned.

77 (3) In the event that the governing authority does not  
78 declare that the cost and any penalty shall be collected as a  
79 civil debt, then the assessment above provided for shall be a lien  
80 against the property and may be enrolled in the office of the  
81 circuit clerk of the county as other judgments are enrolled, and  
82 the tax collector of the municipality shall, upon order of the  
83 board of governing authorities, proceed to sell the land to  
84 satisfy the lien as now provided by law for the sale of lands for  
85 delinquent municipal taxes.

86 (4) All decisions rendered under the provisions of this  
87 section may be appealed in the same manner as other appeals from  
88 municipal boards or courts are taken.

89 (5) The police officer's return on the notice may be in one  
90 (1) of the following forms:

91 (a) Form of personal notice:

92 "I have this day delivered the within notice  
93 personally, by delivering to the within named property  
94 owner, \_\_\_\_\_ (here state name of party  
95 summoned), a true copy of this notice.

96 This, the \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_.

97 \_\_\_\_\_ (Police Officer)"

98 (b) Form of notice where copy left at residence:

99 "I have this day delivered the within notice to

100 \_\_\_\_\_, within named property owner, by

101 leaving a true copy of the same at his (or her) usual  
102 place of abode in my municipality, with  
103 \_\_\_\_\_, his (or her) (here insert wife,  
104 husband, son, daughter or some other person, as the case  
105 may be), \_\_\_\_\_ a member of his (or her)  
106 family above the age of sixteen (16) years, and willing  
107 to receive such copy. The said property owner is not  
108 found in my municipality.

109 This, the \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_.

110 \_\_\_\_\_ (Police Officer)"

111 (c) Form of return when property owner not found within  
112 municipality and is a nonresident thereof:

113 "I have this day attempted to deliver the within  
114 notice to \_\_\_\_\_, the within named property  
115 owner, and after diligent search and inquiry, I failed  
116 to find the same property owner within my municipality,  
117 nor could I ascertain the location of any residence of  
118 the property owner within my municipality.

119 This, the \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_.

120 \_\_\_\_\_ (Police Officer)"

121 The first mode of notice should be made, if it can be; if  
122 not, then the second mode should be made, if it can be; and the  
123 return of the second mode of service must negate the officer's  
124 ability to make the first. If neither the first nor second mode  
125 of service can be made, then the third mode should be made, and  
126 the return thereof must negate the officer's ability to make both  
127 the first and second. In the event the third mode of service is  
128 made, then service shall also be made by publication as provided  
129 in subsection (1) of this section.

130 (6) The officer shall mark on all notices the day of the  
131 receipt thereof by him, and he shall return the same on or before  
132 the day of the hearing, with a written statement of his  
133 proceedings thereon. For failing to note the time of the receipt

134 of notice or for failing to return the same, the officer shall  
135 forfeit to the party aggrieved the sum of Twenty-five Dollars  
136 (\$25.00).

137 (7) Nothing contained under this section shall prevent any  
138 municipality from enacting criminal penalties for failure to  
139 maintain property so not to constitute a menace to public health,  
140 safety and welfare.

141 **SECTION 2.** Section 21-19-20, Mississippi Code of 1972, is  
142 amended as follows:

143 21-19-20. (1) (a) A municipality shall institute  
144 proceedings to have an abandoned house or building that is used  
145 for the sale or use of drugs demolished. The local law  
146 enforcement authority of the municipality shall have documented  
147 proof of drug sales or use in the abandoned property before a  
148 municipality may initiate proceedings to have the property  
149 demolished.

150 (b) (i) A municipality shall institute proceedings to  
151 have an abandoned house or building demolished, if the governing  
152 authority of the municipality determines that the house or  
153 building is a menace to the public health and safety of the  
154 community and that it constitutes a public hazard and nuisance.

155 (ii) Upon the receipt of a petition requesting  
156 the municipality to demolish an abandoned house or building that  
157 constitutes a public hazard and nuisance, signed by a majority of  
158 the residents residing within four hundred (400) feet of the  
159 property, the governing authority of the municipality shall notify  
160 the property owner that the petition has been filed and that a  
161 hearing will be held within thirty (30) days of the service of the  
162 notice. Notice to the property owner shall be by United States  
163 mail, or if the property owner or his address is unknown, then by  
164 two (2) weeks' notice in a newspaper having a general circulation  
165 in the state. The hearing shall be held within thirty (30) days  
166 of the service or publication of the notice. At the hearing, the

167 governing authority shall determine whether the property is a  
168 menace to the public health and safety of the community which  
169 constitutes a public hazard and nuisance. If the governing  
170 authority determines that the property is a public hazard and  
171 nuisance, then the municipality shall institute proceedings to  
172 demolish the abandoned house or building.

173 (2) The municipality shall file a petition to declare the  
174 abandoned property a public hazard and nuisance, and to have the  
175 property demolished with the circuit clerk of the county in which  
176 the property or some part of the property is located. All of the  
177 owners of the property involved, and any mortgagee, trustee, or  
178 other person having any interest in or lien on the property shall  
179 be made defendants to the proceedings. The circuit clerk shall  
180 present the petition to the circuit judge who, by written order  
181 directed to the circuit clerk, shall fix the time and place for  
182 the hearing of the matter in termtime or vacation. The time of  
183 the hearing shall be fixed on a date to allow sufficient time for  
184 each defendant named to be served with process, as otherwise  
185 provided by law, not less than thirty (30) days before the  
186 hearing. If a defendant or other party in interest is not served  
187 for the specified time before the date fixed, the hearing shall be  
188 continued to a day certain to allow the thirty-day period  
189 specified.

190 (3) Any cost incurred by a municipality for demolishing  
191 abandoned property shall be paid by the owners of the property.

192 **SECTION 3.** This act shall take effect and be in force from  
193 and after its passage.