

By: Representative Brown

To: Municipalities

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 AMEND SECTION 21-19-20,
 7 MISSISSIPPI CODE OF 1972, TO PROVIDE THAT A MUNICIPALITY SHALL
 8 INSTITUTE PROCEEDINGS TO HAVE AN ABANDONED HOUSE OR BUILDING
 9 DEMOLISHED, IF IT DETERMINES THAT THE HOUSE OR BUILDING
 10 CONSTITUTES A PUBLIC HAZARD AND NUISANCE; TO PROVIDE THAT A
 11 MAJORITY OF THE RESIDENTS RESIDING WITHIN 400 FEET OF THE PROPERTY
 12 MAY PETITION THE MUNICIPALITY TO HOLD A HEARING ON THE QUESTION OF
 13 WHETHER THE PROPERTY SHOULD BE DEMOLISHED; TO REQUIRE THE
 14 MUNICIPALITY TO NOTIFY THE PROPERTY OWNER OF THE HEARING BY UNITED
 15 STATES MAIL OR BY TWO WEEKS NOTICE IN A NEWSPAPER HAVING A GENERAL
 16 CIRCULATION IN THE STATE; AND FOR RELATED PURPOSES.

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

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

20 21-19-11. (1) The governing authority of any municipality
 21 is * * * authorized * * *, on its own motion, or upon the receipt
 22 of a petition requesting the municipal authority to so act signed
 23 by a majority of the residents residing * * * within four hundred
 24 (400) feet of any property or parcel of land alleged to be in need
 25 of cleaning, to give notice to the property owner by United
 26 States * * * mail two (2) weeks before the date of a hearing, or
 27 by service of notice as provided in this section by a police
 28 officer at least two (2) weeks before the date of a hearing, or if
 29 the property owner * * * or his address is unknown, then by two
 30 (2) weeks' notice in a newspaper having a general circulation in
 31 the municipality, of a hearing to determine whether or not the
 32 property or land is in such a state of uncleanliness as to be a
 33 menace to the public health and safety of the community. If, at
 34 such hearing, the governing authority shall, * * * adjudicate the

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

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

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

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

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

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

90 (a) Form of personal notice:

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

95 This, the _____ day of _____ 20 ____.

96 _____ (Police Officer)"

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

98 "I have this day delivered the within notice to

99 _____, within named property owner, by

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

108 This, the _____ day of _____ 20 _____.
109 _____ (Police Officer)"

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

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

118 This, the _____ day of _____ 20 _____.
119 _____ (Police Officer)"

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

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

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

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

138 21-19-20. (1) (a) A municipality shall institute
139 proceedings to have an abandoned house or building that is used
140 for the sale or use of drugs demolished. The local law
141 enforcement authority of the municipality shall have documented
142 proof of drug sales or use in the abandoned property before a
143 municipality may initiate proceedings to have the property
144 demolished.

145 (b) (i) A municipality shall institute proceedings to
146 have an abandoned house or building demolished, if the governing
147 authority of the municipality determines that the house or
148 building is a menace to the public health and safety of the
149 community and that it constitutes a public hazard and nuisance.

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

166 nuisance, then the municipality shall institute proceedings to
167 demolish the abandoned house or building.

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

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

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