

Adopted
COMMITTEE AMENDMENT NO 1 PROPOSED TO

Senate Bill No. 2828

BY: Committee

**Amend by striking all after the enacting clause and inserting
in lieu thereof the following:**

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 uncleanness 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

place of abode in my municipality, with
_____, his (or her) (here insert wife,
husband, son, daughter or some other person, as the case
may be), _____ a member of his (or her)
family above the age of sixteen (16) years, and willing
to receive such copy. The said property owner is not
found in my municipality.

This, the _____ day of _____ 20 ____.

_____ (Police Officer)"

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

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

This, the _____ day of _____ 20 ____.

_____ (Police Officer)"

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

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

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

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

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

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

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

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

**Further, amend by striking the title in its entirety and
inserting in lieu thereof the following:**

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.