

By: Representative Fleming

To: Municipalities

## HOUSE BILL NO. 54

1 AN ACT TO AUTHORIZE THE GOVERNING AUTHORITIES OF A  
2 MUNICIPALITY TO GIVE ABANDONED REAL PROPERTY TO CERTAIN LANDOWNERS  
3 WHOSE REAL PROPERTY IS ADJACENT TO THE ABANDONED PROPERTY; TO  
4 AMEND SECTIONS 21-19-11 and 21-19-20, MISSISSIPPI CODE OF 1972, IN  
5 CONFORMITY THERETO; AND FOR RELATED PURPOSES.

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

7 **SECTION 1.** The governing authorities of any municipality may  
8 give abandoned real property within the municipality to the  
9 landowner whose real property is adjacent to the real property  
10 which has been abandoned. However, no landowner may acquire the  
11 abandoned real property for rental or commercial purposes. The  
12 governing authorities shall advise the landowner who acquires the  
13 abandoned real property that the overall tax value of the property  
14 may increase upon reappraisal of the abandoned property.

15 **SECTION 2.** Section 21-19-11, Mississippi Code of 1972, is  
16 amended as follows:

17 21-19-11. (1) The governing authority of any municipality  
18 is authorized, on its own motion, or upon the receipt of a  
19 petition requesting the municipal authority to so act signed by a  
20 majority of the residents residing within four hundred (400) feet  
21 of any property or parcel of land alleged to be in need of  
22 cleaning, to give notice to the property owner by United States  
23 mail two (2) weeks before the date of a hearing, or by service of  
24 notice as provided in this section by a police officer at least  
25 two (2) weeks before the date of a hearing, or if the property  
26 owner or his address is unknown, then by two (2) weeks' notice in  
27 a newspaper having a general circulation in the municipality, of a  
28 hearing to determine whether or not the property or land is in

29 such a state of uncleanliness as to be a menace to the public  
30 health and safety of the community. If, at such hearing, the  
31 governing authority shall, adjudicate the property or land in its  
32 then condition to be a menace to the public health and safety of  
33 the community, the governing authority shall, if the owner does  
34 not do so himself, proceed to clean the land, by the use of  
35 municipal employees or by contract, by cutting weeds; filling  
36 cisterns; removing rubbish, dilapidated fences, outside toilets,  
37 dilapidated buildings and other debris; and draining cesspools and  
38 standing water therefrom. Thereafter, the governing authority  
39 may, at its next regular meeting, by resolution adjudicate the  
40 actual cost of cleaning the property and may also impose a penalty  
41 of One Thousand Five Hundred Dollars (\$1,500.00) or fifty percent  
42 (50%) of such actual cost, whichever is more. The cost and any  
43 penalty may become a civil debt against the property owner, or, at  
44 the option of the governing authority, an assessment against the  
45 property. The cost assessed against the property means the cost  
46 to the municipality of using its own employees to do the work or  
47 the cost to the municipality of any contract executed by the  
48 municipality to have the work done. The action herein authorized  
49 shall not be undertaken against any one (1) parcel of land more  
50 than six (6) times in any one (1) calendar year, and the expense  
51 of cleaning of said property shall not exceed an aggregate amount  
52 of Twenty Thousand Dollars (\$20,000.00) per year, or the fair  
53 market value of the property subsequent to cleaning, whichever is  
54 less. If it is determined by the governing authority that it is  
55 necessary to clean any property or land more than once within a  
56 calendar year, then the municipality may clean it provided notice  
57 to the property owner is given by United States mail to the last  
58 known address at least ten (10) days before cleaning the property.  
59 The governing authority may assess the same penalty for each time  
60 the property or land is cleaned as otherwise provided in this  
61 section. The penalty provided herein shall not be assessed

62 against the State of Mississippi upon request for reimbursement  
63 under Section 29-1-145, nor shall a municipality clean a parcel  
64 owned by the State of Mississippi without first giving notice.

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

72 (3) In the event that the governing authority does not  
73 declare that the cost and any penalty shall be collected as a  
74 civil debt, then the assessment above provided for shall be a lien  
75 against the property and may be enrolled in the office of the  
76 circuit clerk of the county as other judgments are enrolled, and  
77 the tax collector of the municipality shall, upon order of the  
78 board of governing authorities, proceed to sell the land to  
79 satisfy the lien as now provided by law for the sale of lands for  
80 delinquent municipal taxes. If the governing authorities  
81 determine that the property has been abandoned by the owner of the  
82 property, the governing authorities, in lieu of selling the  
83 property as provided herein, may allow the landowner whose  
84 property is adjacent to the abandoned property to acquire the  
85 abandoned property. However, no landowner may acquire the  
86 abandoned property for rental or commercial purposes. The  
87 governing authorities shall advise the landowner who acquires the  
88 abandoned property that the overall tax value of the property may  
89 increase upon reappraisal of the abandoned property.

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

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

95 (a) Form of personal notice:

96 "I have this day delivered the within notice  
97 personally, by delivering to the within named property  
98 owner, \_\_\_\_\_ (here state name of party  
99 summoned), a true copy of this notice.

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

101 \_\_\_\_\_ (Police Officer)"

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

103 "I have this day delivered the within notice to  
104 \_\_\_\_\_, within named property owner, by  
105 leaving a true copy of the same at his (or her) usual  
106 place of abode in my municipality, with  
107 \_\_\_\_\_, his (or her) (here insert wife,  
108 husband, son, daughter or some other person, as the case  
109 may be), \_\_\_\_\_ a member of his (or her)  
110 family above the age of sixteen (16) years, and willing  
111 to receive such copy. The said property owner is not  
112 found in my municipality.

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

114 \_\_\_\_\_ (Police Officer)"

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

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

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

124 \_\_\_\_\_ (Police Officer)"

125 The first mode of notice should be made, if it can be; if  
126 not, then the second mode should be made, if it can be; and the  
127 return of the second mode of service must negate the officer's

128 ability to make the first. If neither the first nor second mode  
129 of service can be made, then the third mode should be made, and  
130 the return thereof must negate the officer's ability to make both  
131 the first and second. In the event the third mode of service is  
132 made, then service shall also be made by publication as provided  
133 in subsection (1) of this section.

134 (6) The officer shall mark on all notices the day of the  
135 receipt thereof by him, and he shall return the same on or before  
136 the day of the hearing, with a written statement of his  
137 proceedings thereon. For failing to note the time of the receipt  
138 of notice or for failing to return the same, the officer shall  
139 forfeit to the party aggrieved the sum of Twenty-five Dollars  
140 (\$25.00).

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

145 **SECTION 3.** Section 21-19-20, Mississippi Code of 1972, is  
146 amended as follows:

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

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

158 (ii) Upon the receipt of a petition requesting the  
159 municipality to demolish an abandoned house or building that  
160 constitutes a public hazard and nuisance signed by a majority of

161 the residents residing within four hundred (400) feet of the  
162 property, the governing authority of the municipality shall notify  
163 the property owner that the petition has been filed and that a  
164 date for a hearing on the petition has been set. Notice to the  
165 property owner shall be by United States mail, or if the property  
166 owner or his address is unknown, publication of the notice shall  
167 be made twice each week during two (2) successive weeks in a  
168 public newspaper of the county in which the municipality is  
169 located; where there is no newspaper in the county, the notice  
170 shall be published in a newspaper having a general circulation in  
171 the state. The hearing shall be held not less than thirty (30)  
172 nor more than sixty (60) days after service or completion of  
173 publication of the notice. At the hearing, the governing  
174 authority shall determine whether the property is a menace to the  
175 public health and safety of the community which constitutes a  
176 public hazard and nuisance. If the governing authority determines  
177 that the property is a public hazard and nuisance, the  
178 municipality shall institute proceedings under subsection (2) of  
179 this section to demolish the abandoned house or building.

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

194 for the specified time before the date fixed, the hearing shall be  
195 continued to a day certain to allow the thirty-day period  
196 specified.

197 (3) Any cost incurred by a municipality for demolishing  
198 abandoned property shall be paid by the owners of the property.  
199 The governing authorities may allow landowners whose property is  
200 adjacent to the abandoned property to acquire the property in the  
201 manner provided in House Bill No. \_\_\_\_\_, 2006 Regular Session.

202 **SECTION 4.** This act shall take effect and be in force from  
203 and after July 1, 2006.