

By: Representative Turner

To: Municipalities

HOUSE BILL NO. 76

1 AN ACT TO AMEND SECTION 21-19-11, MISSISSIPPI CODE OF 1972,
2 TO REVISE THE NOTICE REQUIREMENTS FOR OWNERS OF PROPERTY OR LAND
3 WITHIN MUNICIPALITIES WHO HAVE FAILED TO MAINTAIN SUCH PROPERTY OR
4 LAND; TO AUTHORIZE MUNICIPAL PLANNING DEPARTMENTS TO HANDLE SUCH
5 NOTICE REQUIREMENTS; TO PROVIDE THAT PROPERTY OWNERS WHO HAVE BEEN
6 ASSESSED A FEE FOR FAILING TO MAINTAIN HIS OR HER PROPERTY AND
7 SUCH FEE BECOMES DELINQUENT SHALL NOT BE ISSUED OR HAVE RENEWED A
8 MOTOR VEHICLE ROAD AND BRIDGE PRIVILEGE LICENSE UNTIL SUCH
9 DELINQUENT FEES ARE DISCHARGED; AND FOR RELATED PURPOSES.

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

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

13 21-19-11. (1) (a) The governing authority of any
14 municipality is authorized, on its own action, or upon the receipt
15 of a petition requesting the municipal authority to so act signed
16 by a majority of the residents residing within four hundred (400)
17 feet of any property or parcel of land alleged to be in need of
18 cleaning, to give written notice to the property owner by United
19 States mail seven (7) days before the date of a hearing, or by
20 service of notice as provided in this section by a police officer
21 at least seven (7) days before the date of a hearing, or * * * by
22 seven (7) days notice in a newspaper having a general circulation
23 in the municipality, of a hearing to determine whether or not the
24 property or land is in such a state of uncleanliness as to be a
25 menace to the public health and safety of the community. Notice
26 may be given any one or more method described in this subsection.
27 If notice is given by publication, a copy of the notice shall also
28 be posted on the property that is the subject of the notice at
29 least seven (7) days before the date of the hearing.



30 (b) The governing authority is authorized to delegate
31 to the municipality's planning department the requirements of
32 notice and conducting hearings as described in subsection (a).
33 Upon such delegation, evidenced by resolution of the governing
34 authority, the planning department shall be the municipality's
35 designee for purposes of receiving petitions as described in
36 subsection (a), giving notice and conducting hearings. As
37 designee, the planning department may conduct hearings on any
38 nonholiday weekday between 9:00 a.m. and 4:00 p.m. and the hearing
39 date and time shall be set forth in the written notice provided to
40 the property owner. Further, as designee, the planning department
41 may act on its own, without prior approval from the governing
42 authority, in determining which properties are alleged to be in
43 need of cleaning, and in setting and conducting hearings.
44 Following each hearing a report of the outcome of the hearing
45 shall be made by the planning department to the governing
46 authority at its next regular hearing.

47 (c) If, at the hearing described in subsection (a), the
48 governing authority or its designee as described in subsection (b)
49 shall adjudicate the property or land in its then condition to be
50 a menace to the public health and safety of the community, the
51 governing authority or its designee as described in subsection (b)
52 shall, if the owner does not do so himself, proceed to clean the
53 land, by the use of municipal employees or by contract, by cutting
54 grass and weeds; filling cisterns; removing rubbish, dilapidated
55 fences, outside toilets, dilapidated buildings and other debris;
56 and draining cesspools and standing water therefrom. Thereafter,
57 the governing authority may, at its next regular meeting, by
58 resolution adjudicate the actual cost of cleaning the property and
59 may also impose a penalty of One Thousand Five Hundred Dollars
60 (\$1,500.00) or fifty percent (50%) of such actual cost, whichever
61 is more. The cost and any penalty shall become * * * an
62 assessment against the property. The cost assessed against the



63 property means the cost to the municipality of using its own
64 employees to do the work or the cost to the municipality of any
65 contract executed by the municipality to have the work done. The
66 action herein authorized shall not be undertaken against any one
67 (1) parcel of land more than six (6) times in any one (1) calendar
68 year, and the expense of cleaning of said property shall not
69 exceed an aggregate amount of Twenty Thousand Dollars (\$20,000.00)
70 per year, or the fair market value of the property subsequent to
71 cleaning, whichever is less. If it is determined by the governing
72 authority that it is necessary to clean any property or land more
73 than once within a calendar year, then the municipality may clean
74 it without conducting another hearing during the calendar year
75 provided notice to the property owner is given by United States
76 mail to the last known address at least seven (7) days before
77 cleaning the property again. The governing authority may assess
78 the same penalty for each time the property or land is cleaned as
79 otherwise provided in this section. The penalty provided herein
80 shall not be assessed against the State of Mississippi upon
81 request for reimbursement under Section 29-1-145, nor shall a
82 municipality clean a parcel owned by the State of Mississippi
83 without first giving notice.

84 * * *

85 (2) (a) The governing authority shall mail a notice of the
86 lien, including the amount thereof and a description of the
87 property subject to the lien, to the last known address of the
88 owner of the property, and shall post a copy of the notice on the
89 affected property. The assessment shall be due and payable within
90 seven (7) days of the latter of the dates of posting and mailing
91 of notice of the lien.

92 (b) The assessment shall be a lien against the property
93 and may be enrolled in the office of the circuit clerk of the
94 county as other judgments are enrolled.



95 (c) The governing authority may, (i) by order spread on
96 its minutes, direct the sale of the affected property to satisfy
97 the lien as now provided by the law for the sale of lands for
98 delinquent municipal taxes, (ii) retain a collection agency to
99 collect the assessment, and/or (iii) notify the county tax
100 collector of any unpaid fees assessed in this section ninety (90)
101 days after the fees are due. Before notifying the tax collector,
102 the governing authority shall provide notice of the delinquency to
103 the person who owes the delinquent fees and shall afford an
104 opportunity for a hearing that complies with the due process
105 protections the board deems necessary and that is consistent with
106 the Constitutions of the United States and the State of
107 Mississippi. The governing authority shall establish procedures
108 for the manner in which notice shall be given and the contents of
109 the notice; however, each notice shall include the amount of the
110 delinquent assessment and shall prescribe the procedure required
111 for payment thereof.

112 (d) Upon receipt of a delinquency notice, the county
113 tax collector shall not issue or renew a motor vehicle road and
114 bridge privilege license for any motor vehicle owned by a person
115 who is delinquent in the payment of the assessment unless the
116 assessment, in addition to any other taxes or fees assessed
117 against the motor vehicle, are paid in full. Payment of all
118 delinquent assessments assessed in accordance with this section
119 shall be deemed a condition of receiving a motor vehicle road and
120 bridge privilege license tag.

121 (e) The county tax collector may forward the motor
122 vehicle road and bridge privilege license tag renewal notices to
123 the municipal planning department. The municipal planning
124 department shall thereafter identify those license tags that shall
125 not be issued due to delinquent assessments and shall stamp a
126 message on the license tag renewal notices that the tag shall not
127 be renewed until the delinquency is paid in full. The planning



128 department or collection agency shall return the license tag
129 notices to the tax collector before the first of the month.

130 (3) Liens created pursuant to this section may be discharged
131 by filing with the circuit clerk a receipt or acknowledgment,
132 signed by the designated municipal official or billing and
133 collection entity, that the lien has been paid or discharged.

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

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

139 (a) Form of personal notice:

140 "I have this day delivered the within notice
141 personally, by delivering to the within named property
142 owner, _____ (here state name of party
143 summoned), a true copy of this notice.

144 This, the ____ day of _____, 20 ____.

145 _____ (Police Officer)"

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

147 "I have this day delivered the within notice to
148 _____, within named property owner, by
149 leaving a true copy of the same at his (or her) usual
150 place of abode in my municipality, with
151 _____, his (or her) (here insert wife,
152 husband, son, daughter or some other person, as the case
153 may be), _____ a member of his (or her)
154 family above the age of sixteen (16) years, and willing
155 to receive such copy. The said property owner is not
156 found in my municipality.

157 This, the ____ day of _____, 20 ____.

158 _____ (Police Officer)"

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



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

167 This, the ____ day of _____, 20 ____.
168 _____ (Police Officer)"

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

178 (6) The officer shall mark on all notices the day of the
179 receipt thereof by him, and he shall return the same on or before
180 the day of the hearing, with a written statement of his
181 proceedings thereon. For failing to note the time of the receipt
182 of notice or for failing to return the same, the officer shall
183 forfeit to the party aggrieved the sum of Twenty-five Dollars
184 (\$25.00).

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

189 **SECTION 2.** This act shall take effect and be in force from
190 and after July 1, 2007.

