

By: Representative Fleming

To: Municipalities

HOUSE BILL NO. 258

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 Section 1 of House Bill No. _____, 2007 Regular
202 Session.

203 **SECTION 4.** This act shall take effect and be in force from
204 and after July 1, 2007.