

By: Representative Reeves

To: Municipalities

HOUSE BILL NO. 1116

1 AN ACT TO AUTHORIZE THE GOVERNING AUTHORITY OF ANY
2 MUNICIPALITY TO QUITCLAIM SURPLUS REAL PROPERTY TO AN INDIVIDUAL
3 OR COMPANY FOR REHABILITATION OR DEVELOPMENT; TO AMEND SECTIONS
4 21-19-11 AND 21-19-20, MISSISSIPPI CODE OF 1972, IN CONFORMITY
5 THERETO; AND FOR RELATED PURPOSES.

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

7 **SECTION 1.** The governing authority of any municipality may
8 quitclaim surplus real property within the municipality to an
9 individual or company for rehabilitation or redevelopment. The
10 governing authority shall advise the devisee of the surplus real
11 property that the overall tax value of the property may increase
12 upon reappraisal of the quitclaimed property.

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

15 21-19-11. (1) The governing authority of any municipality
16 is authorized, on its own motion, or upon the receipt of a
17 petition requesting the municipal authority to so act signed by a
18 majority of the residents residing within four hundred (400) feet
19 of any property or parcel of land alleged to be in need of
20 cleaning, to give notice to the property owner by United States
21 mail two (2) weeks before the date of a hearing, or by service of
22 notice as provided in this section by a police officer at least
23 two (2) weeks before the date of a hearing, or if the property
24 owner or his address is unknown, then by two (2) weeks' notice in
25 a newspaper having a general circulation in the municipality, of a
26 hearing to determine whether or not the property or land is in
27 such a state of uncleanliness as to be a menace to the public
28 health and safety of the community. If, at such hearing, the

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

under Section 29-1-145, nor shall a municipality clean a parcel owned by the State of Mississippi without first giving notice.

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

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

(b) If the governing authority succeeds to title ownership of the property, the governing authority, in lieu of selling the property as provided herein, may quitclaim the surplus property in accordance with Section 1 of House Bill No. _____, 2007 Regular Session.

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

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

(a) Form of personal notice:

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

94 This, the _____ day of _____, 20 ____.
95 _____ (Police Officer)"

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

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

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

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

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

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

119 The first mode of notice should be made, if it can be; if
120 not, then the second mode should be made, if it can be; and the
121 return of the second mode of service must negate the officer's
122 ability to make the first. If neither the first nor second mode
123 of service can be made, then the third mode should be made, and
124 the return thereof must negate the officer's ability to make both
125 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 as not to constitute a menace to public health, safety and welfare.

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

21-19-20. (1) (a) A municipality shall institute proceedings to have demolished an abandoned house or building that is used for the sale or use of drugs. 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 date for a hearing on the petition has been set. Notice to the

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

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

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

193 (b) If the governing authority succeeds to title
194 ownership of the property, the governing authority, in lieu of
195 selling the property as provided herein, may quitclaim the surplus
196 property in accordance with Section 1 of House Bill No. _____, 2007
197 Regular Session.

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