

By: Representative Reeves

To: Municipalities

HOUSE BILL NO. 1150
(As Passed the House)

1 AN ACT TO AMEND SECTION 21-17-1, MISSISSIPPI CODE OF 1972, TO
2 AUTHORIZE THE GOVERNING AUTHORITIES OF ANY MUNICIPALITY TO CONVEY
3 MUNICIPALLY OWNED REAL PROPERTY TO ANY PERSON OR LEGAL ENTITY,
4 WITHOUT PUBLIC NOTICE, WITHOUT HAVING TO ADVERTISE FOR AND ACCEPT
5 COMPETITIVE BIDS, WITHOUT APPRAISAL AND WITH OR WITHOUT
6 CONSIDERATION IF THE GOVERNING AUTHORITIES DETERMINE THAT SUCH
7 PROPERTY THAT WAS ACQUIRED BY A TAX SALE OR BY REASON OF THE
8 PROPERTY HAVING BEEN ABANDONED OR BLIGHTED IS NO LONGER NEEDED FOR
9 MUNICIPAL OR RELATED PURPOSES AND THAT THE CONVEYANCE THEREOF WILL
10 PROMOTE AND FOSTER THE DEVELOPMENT AND IMPROVEMENT OF THE
11 COMMUNITY IN WHICH IT IS LOCATED; TO AUTHORIZE MUNICIPALITIES TO
12 DIVIDE AND GIVE AWAY LOTS THAT ARE 25 FEET OR LESS TO ADJOINING
13 PROPERTY OWNERS IF CERTAIN CONDITIONS ARE MET; AND FOR RELATED
14 PURPOSES.

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

16 **SECTION 1.** Section 21-17-1, Mississippi Code of 1972, is
17 amended as follows:

18 21-17-1. (1) Every municipality of this state shall be a
19 municipal corporation and shall have power to sue and be sued; to
20 purchase and hold real estate, either within or without the
21 corporate limits, for all proper municipal purposes, including
22 parks, cemeteries, hospitals, schoolhouses, houses of correction,
23 waterworks, electric lights, sewers and other proper municipal
24 purposes; to purchase and hold personal property for all proper
25 municipal purposes; to acquire equipment and machinery by
26 lease-purchase agreement and to pay interest thereon, if
27 contracted, when needed for proper municipal purposes; to sell and
28 convey any real and personal property owned by it, and make such
29 order respecting the same as may be deemed conducive to the best
30 interest of the municipality, and exercise jurisdiction over the
31 same.

32 (2) (a) In case any of the real property belonging to a
33 municipality shall cease to be used for municipal purposes, the

34 governing authority of the municipality may sell, convey or lease
35 the same on such terms as the municipal authority may elect. In
36 case of a sale on a credit, the municipality shall charge
37 appropriate interest as contracted and shall have a lien on the
38 same for the purchase money, as against all persons, until paid
39 and may enforce the lien as in such cases provided by law. The
40 deed of conveyance in such cases shall be executed in the name of
41 the municipality by the governing authority of the municipality
42 pursuant to an order entered on the minutes. In any sale or
43 conveyance of real property, the municipality shall retain all
44 mineral rights that it owns, together with the right of ingress
45 and egress to remove same. Except as otherwise provided in this
46 section, before any such lease, deed or conveyance is executed,
47 the governing authority of the municipality shall publish at least
48 once each week for three (3) consecutive weeks, in a public
49 newspaper of the municipality in which the real property is
50 located, or if no newspaper be published as such, then in a
51 newspaper having general circulation therein, the intention to
52 lease or sell, as the case may be, the municipally owned real
53 property and to accept sealed competitive bids for the leasing or
54 sale. The governing authority of the municipality shall
55 thereafter accept bids for the lease or sale and shall award the
56 lease or sale to the highest bidder in the manner provided by law.
57 However, whenever the governing authority of the municipality
58 shall find and determine, by resolution duly and lawfully adopted
59 and spread upon its minutes (i) that any municipally owned real
60 property is no longer needed for municipal or related purposes and
61 is not to be used in the operation of the municipality, (ii) that
62 the sale of such property in the manner otherwise provided by law
63 is not necessary or desirable for the financial welfare of the
64 municipality, and (iii) that the use of such property for the
65 purpose for which it is to be sold, conveyed or leased will
66 promote and foster the development and improvement of the

67 community in which it is located and the civic, social,
68 educational, cultural, moral, economic or industrial welfare
69 thereof, the governing authority of the municipality shall be
70 authorized and empowered, in its discretion, to sell, convey or
71 lease same for any of the purposes set forth herein without having
72 to advertise for and accept competitive bids.

73 (b) In any case in which a municipality proposes to
74 sell, convey or lease real property under the provisions of this
75 subsection (2) without advertising for and accepting competitive
76 bids, the governing authority may sell, convey or lease the
77 property as follows:

78 (i) Consideration for the purchase, conveyance or
79 lease of the property shall be not less than the average of the
80 fair market price for such property as determined by three (3)
81 professional property appraisers selected by the municipality and
82 approved by the purchaser or lessee. Appraisal fees shall be
83 shared equally by the municipality and the purchaser or lessee; or

84 (ii) The governing authority of a municipality may
85 contract for the professional services of a Mississippi licensed
86 real estate broker to assist the municipality in the marketing and
87 sale or lease of the property, and may provide the broker
88 reasonable compensation for services rendered to be paid from the
89 sale or lease proceeds. The reasonable compensation shall not
90 exceed the usual and customary compensation for similar services
91 within the municipality.

92 (3) Whenever the governing authority of the municipality
93 shall find and determine by resolution duly and lawfully adopted
94 and spread upon the minutes that municipally owned real property
95 is not used for municipal purposes and therefore surplus as set
96 forth in subsection (2) of this section:

97 (a) The governing authority may donate such lands to a
98 bona fide not-for-profit civic or eleemosynary corporation
99 organized and existing under the laws of the State of Mississippi

100 and granted tax exempt status by the Internal Revenue Service and
101 may donate such lands and necessary funds related thereto to the
102 public school district in which the land is situated for the
103 purposes set forth herein. Any deed or conveyance executed
104 pursuant hereto shall contain a clause of reverter providing that
105 the bona fide not-for-profit corporation or public school district
106 may hold title to such lands only so long as they are continued to
107 be used for the civic, social, educational, cultural, moral,
108 economic or industrial welfare of the community, and that title
109 shall revert to the municipality in the event of the cessation of
110 such use for a period of two (2) years. In any such deed or
111 conveyance, the municipality shall retain all mineral rights that
112 it owns, together with the right of ingress and egress to remove
113 same;

114 (b) The governing authority may donate such lands to a
115 bona fide not-for-profit corporation (such as Habitat for
116 Humanity) which is primarily engaged in the construction of
117 housing for persons who otherwise can afford to live only in
118 substandard housing. In any such deed or conveyance, the
119 municipality shall retain all mineral rights that it owns,
120 together with the right of ingress and egress to remove same;

121 (c) In the event the governing authority does not wish
122 to donate title to such lands to the bona fide not-for-profit
123 civic or eleemosynary corporation, but wishes to retain title to
124 the lands, the governing authority may lease the lands to a bona
125 fide not-for-profit corporation described in paragraph (a) or (b)
126 for less than fair market value;

127 (d) Nothing contained in this subsection (3) shall be
128 construed to prohibit, restrict or to prescribe conditions with
129 regard to the authority granted under Section 17-25-3.

130 (4) Every municipality shall also be authorized and
131 empowered to loan to private persons or entities, whether
132 organized for profit or nonprofit, funds received from the United

133 States Department of Housing and Urban Development (HUD) under an
134 urban development action grant or a community development block
135 grant under the Housing and Community Development Act of 1974
136 (Public Law 93-383), as amended, and to charge interest thereon if
137 contracted, provided that no such loan shall include any funds
138 from any revenues other than the funds from the United States
139 Department of Housing and Urban Development; to make all contracts
140 and do all other acts in relation to the property and affairs of
141 the municipality necessary to the exercise of its governmental,
142 corporate and administrative powers; and to exercise such other or
143 further powers as are otherwise conferred by law.

144 (5) (a) The governing authority of any municipality may
145 establish an employer-assisted housing program to provide funds to
146 eligible employees to be used toward the purchase of a home. This
147 assistance may be applied toward the down payment, closing costs
148 or any other fees or costs associated with the purchase of a home.
149 The housing assistance may be in the form of a grant, forgivable
150 loan or repayable loan. The governing authority of a municipality
151 may contract with one or more public or private entities to
152 provide assistance in implementing and administering the program
153 and shall adopt rules and regulations regarding the eligibility of
154 a municipality for the program and for the implementation and
155 administration of the program. However, no general funds of a
156 municipality may be used for a grant or loan under the program.

157 (b) Participation in the program established under this
158 subsection (5) shall be available to any eligible municipal
159 employee as determined by the governing authority of the
160 municipality. Any person who receives financial assistance under
161 the program must purchase a house and reside within certain
162 geographic boundaries as determined by the governing authority of
163 the municipality.

164 (c) If the assistance authorized under this subsection
165 (5) is structured as a forgivable loan, the participating employee

166 must remain as an employee of the municipality for an agreed upon
167 period of time, as determined by the rules and regulations adopted
168 by the governing authority of the municipality, in order to have
169 the loan forgiven. The forgiveness structure, amount of
170 assistance and repayment terms shall be determined by the
171 governing authority of the municipality.

172 (6) The governing authority of any municipality may contract
173 with a private attorney or private collection agent or agency to
174 collect any type of delinquent payment owed to the municipality,
175 including, but not limited to, past due fees and fines. Any such
176 contract debt may provide for payment contingent upon successful
177 collection efforts or payment based upon a percentage of the
178 delinquent amount collected; however, the entire amount of all
179 delinquent payments collected shall be remitted to the
180 municipality and shall not be reduced by any collection costs or
181 fees. Any private attorney or private collection agent or agency
182 contracting with the municipality under the provisions of this
183 subsection shall give bond or other surety payable to the
184 municipality in such amount as the governing authority of the
185 municipality deems sufficient. Any private attorney with whom the
186 municipality contracts under the provisions of this subsection
187 must be a member in good standing of The Mississippi Bar. Any
188 private collection agent or agency with whom the municipality
189 contracts under the provisions of this subsection must meet all
190 licensing requirements for doing business in the State of
191 Mississippi. Neither the municipality nor any officer or employee
192 of the municipality shall be liable, civilly or criminally, for
193 any wrongful or unlawful act or omission of any person or business
194 with whom the municipality has contracted under the provisions of
195 this subsection. The Mississippi Department of Audit shall
196 establish rules and regulations for use by municipalities in
197 contracting with persons or businesses under the provisions of
198 this subsection. If a municipality uses its own employees to

199 collect any type of delinquent payment owed to the municipality,
200 then from and after July 1, 2000, the municipality may charge an
201 additional fee for collection of the delinquent payment provided
202 the payment has been delinquent for ninety (90) days. The
203 collection fee may not exceed fifteen percent (15%) of the
204 delinquent payment if the collection is made within this state and
205 may not exceed twenty-five percent (25%) of the delinquent payment
206 if the collection is made outside this state. In conducting
207 collection of delinquent payments, the municipality may utilize
208 credit cards or electronic fund transfers. The municipality may
209 pay any service fees for the use of such methods of collection
210 from the collection fee, but not from the delinquent payment.
211 There shall be due to the municipality from any person whose
212 delinquent payment is collected under a contract executed as
213 provided in this subsection an amount, in addition to the
214 delinquent payment, of not to exceed twenty-five percent (25%) of
215 the delinquent payment for collections made within this state, and
216 not to exceed fifty percent (50%) of the delinquent payment for
217 collections made outside of this state.

218 (7) In addition to such authority as is otherwise granted
219 under this section, the governing authority of any municipality
220 may expend funds necessary to maintain and repair, and to purchase
221 liability insurance, tags and decals for, any personal property
222 acquired under the Federal Excess Personal Property Program that
223 is used by the local volunteer fire department.

224 (8) The governing authority of any municipality may, in its
225 discretion, donate personal property or funds to the public school
226 district or districts located in the municipality for the
227 promotion of educational programs of the district or districts
228 within the municipality.

229 (9) In addition to the authority to expend matching funds
230 under Section 21-19-65, the governing authority of any
231 municipality, in its discretion, may expend municipal funds to

232 match any state, federal or private funding for any program
233 administered by the State of Mississippi, the United States
234 government or any nonprofit organization that is exempt under 26
235 USCS Section 501(c)(3) from paying federal income tax.

236 (10) The governing authority of any municipality that owns
237 and operates a gas distribution system, as defined in Section
238 21-27-11(b), and the governing authority of any public natural gas
239 district are authorized to contract for the purchase of the supply
240 of natural gas for a term of up to ten (10) years with any public
241 nonprofit corporation which is organized under the laws of this
242 state or any other state.

243 (11) In addition to such authority as is otherwise granted
244 under this section, whenever the governing authorities of any
245 municipality find and determine, by resolution duly and lawfully
246 adopted and spread upon their official minutes that any
247 municipally owned real property which was acquired by the
248 municipality by reason of a tax sale or by reason of the property
249 having been abandoned or blighted (a) is not needed for municipal
250 or related purposes and is not to be used in the operation of the
251 municipality, (b) that the sale of such property in the manner
252 otherwise provided by law is not necessary or desirable for the
253 financial welfare of the municipality, and (c) that the use of
254 such property for the purpose for which it is to be conveyed will
255 promote and foster the development and improvement of the
256 community in which it is located or the civic, social,
257 educational, cultural, moral, economic or industrial welfare
258 thereof, the governing authorities of the municipality, in their
259 discretion, may sell, lease, donate or otherwise convey such
260 property to any person or legal entity without public notice,
261 without having to advertise for and accept competitive bids,
262 without appraisal, with or without consideration and on such terms
263 and conditions as the parties may agree. All costs associated
264 with the conveyance shall be paid by the person or entity to whom

265 the conveyance is made. Any deed or instrument of conveyance
266 executed pursuant to the authority granted under this subsection
267 shall contain a clause of reverter providing that the person or
268 entity to whom the property is conveyed may hold title to such
269 lands only so long as the property is used for the purposes for
270 which it was conveyed, and that title shall revert to the
271 municipality in the event of the cessation of such use for a
272 period of two (2) years. In any such deed or instrument of
273 conveyance, the municipality shall retain all mineral rights that
274 it owns, together with the right of ingress and egress to remove
275 same.

276 (12) In addition to the findings in subsection (11), the
277 municipality may divide in half twenty-five (25) or less foot lots
278 in residential areas and give each one-half (1/2) to adjoining
279 property owners provided both properties are owned by the
280 residents and none of the property is rented.

281 (13) The powers conferred by this section shall be in
282 addition and supplemental to the powers conferred by any other
283 law, and nothing contained in this section shall be construed to
284 prohibit, or to prescribe conditions concerning, any practice or
285 practices authorized under any other law.

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