

By: Representative Reeves

To: Municipalities

HOUSE BILL NO. 1150
(As Sent to Governor)

1 AN ACT TO AMEND SECTION 21-17-1, MISSISSIPPI CODE OF 1972, TO
2 AUTHORIZE A MUNICIPALITY TO LEASE OR OTHERWISE CONVEY SURPLUS
3 PROPERTY LOCATED IN A BLIGHTED AREA, WITH OR WITHOUT
4 CONSIDERATION, SUBJECT TO CERTAIN CONDITIONS; TO AUTHORIZE
5 MUNICIPALITIES TO DIVIDE AND GIVE AWAY LOTS THAT ARE 25 FEET OR
6 LESS TO ADJOINING PROPERTY OWNERS IF CERTAIN CONDITIONS ARE MET;
7 TO AUTHORIZE ANY MUNICIPALITY TO ENTER INTO AGREEMENTS AND
8 CONTRACTS AND TO PROVIDE AND DELIVER ANY SERVICES OR ASSISTANCE
9 AND TO AUTHORIZE ANY MUNICIPALITY TO RECEIVE, EXPEND AND
10 ADMINISTER ANY GRANTS, GIFTS, MATCHING FUNDS, LOANS OR OTHER
11 MONIES; AND FOR RELATED PURPOSES.

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

13 **SECTION 1.** Section 21-17-1, Mississippi Code of 1972, as
14 amended by House Bill No. 856, 2007 Regular Session, is amended as
15 follows:

16 21-17-1. (1) Every municipality of this state shall be a
17 municipal corporation and shall have power to sue and be sued; to
18 purchase and hold real estate, either within or without the
19 corporate limits, for all proper municipal purposes, including
20 parks, cemeteries, hospitals, schoolhouses, houses of correction,
21 waterworks, electric lights, sewers and other proper municipal
22 purposes; to purchase and hold personal property for all proper
23 municipal purposes; to acquire equipment and machinery by
24 lease-purchase agreement and to pay interest thereon, if
25 contracted, when needed for proper municipal purposes; to sell and
26 convey any real and personal property owned by it, and make such
27 order respecting the same as may be deemed conducive to the best
28 interest of the municipality, and exercise jurisdiction over the
29 same.

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

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

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

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

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

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

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

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

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

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

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

125 (c) The governing authority may donate any municipally
126 owned lot measuring twenty-five (25) feet or less along the
127 frontage line as follows: the governing authority may cause the
128 lot to be divided in half along a line running generally
129 perpendicular to the frontage line and may convey each one-half
130 (1/2) of that lot to the owners of the parcels laterally adjoining

131 the municipally owned lot. All costs associated with a conveyance
132 under this paragraph (c) shall be paid by the person or entity to
133 whom the conveyance is made. In any such deed or instrument of
134 conveyance, the municipality shall retain all mineral rights that
135 it owns, together with the right of ingress and egress to remove
136 same.

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

140 (4) Every municipality shall also be authorized and
141 empowered to loan to private persons or entities, whether
142 organized for profit or nonprofit, funds received from the United
143 States Department of Housing and Urban Development (HUD) under an
144 urban development action grant or a community development block
145 grant under the Housing and Community Development Act of 1974
146 (Public Law 93-383), as amended, and to charge interest thereon if
147 contracted, provided that no such loan shall include any funds
148 from any revenues other than the funds from the United States
149 Department of Housing and Urban Development; to make all contracts
150 and do all other acts in relation to the property and affairs of
151 the municipality necessary to the exercise of its governmental,
152 corporate and administrative powers; and to exercise such other or
153 further powers as are otherwise conferred by law.

154 (5) (a) The governing authority of any municipality may
155 establish an employer-assisted housing program to provide funds to
156 eligible employees to be used toward the purchase of a home. This
157 assistance may be applied toward the down payment, closing costs
158 or any other fees or costs associated with the purchase of a home.
159 The housing assistance may be in the form of a grant, forgivable
160 loan or repayable loan. The governing authority of a municipality
161 may contract with one or more public or private entities to
162 provide assistance in implementing and administering the program
163 and shall adopt rules and regulations regarding the eligibility of

164 a municipality for the program and for the implementation and
165 administration of the program. However, no general funds of a
166 municipality may be used for a grant or loan under the program.

167 (b) Participation in the program established under this
168 subsection (5) shall be available to any eligible municipal
169 employee as determined by the governing authority of the
170 municipality. Any person who receives financial assistance under
171 the program must purchase a house and reside within certain
172 geographic boundaries as determined by the governing authority of
173 the municipality.

174 (c) If the assistance authorized under this subsection
175 (5) is structured as a forgivable loan, the participating employee
176 must remain as an employee of the municipality for an agreed upon
177 period of time, as determined by the rules and regulations adopted
178 by the governing authority of the municipality, in order to have
179 the loan forgiven. The forgiveness structure, amount of
180 assistance and repayment terms shall be determined by the
181 governing authority of the municipality.

182 (6) The governing authority of any municipality may contract
183 with a private attorney or private collection agent or agency to
184 collect any type of delinquent payment owed to the municipality,
185 including, but not limited to, past due fees and fines. Any such
186 contract debt may provide for payment contingent upon successful
187 collection efforts or payment based upon a percentage of the
188 delinquent amount collected; however, the entire amount of all
189 delinquent payments collected shall be remitted to the
190 municipality and shall not be reduced by any collection costs or
191 fees. Any private attorney or private collection agent or agency
192 contracting with the municipality under the provisions of this
193 subsection shall give bond or other surety payable to the
194 municipality in such amount as the governing authority of the
195 municipality deems sufficient. Any private attorney with whom the
196 municipality contracts under the provisions of this subsection

197 must be a member in good standing of The Mississippi Bar. Any
198 private collection agent or agency with whom the municipality
199 contracts under the provisions of this subsection must meet all
200 licensing requirements for doing business in the State of
201 Mississippi. Neither the municipality nor any officer or employee
202 of the municipality shall be liable, civilly or criminally, for
203 any wrongful or unlawful act or omission of any person or business
204 with whom the municipality has contracted under the provisions of
205 this subsection. The Mississippi Department of Audit shall
206 establish rules and regulations for use by municipalities in
207 contracting with persons or businesses under the provisions of
208 this subsection. If a municipality uses its own employees to
209 collect any type of delinquent payment owed to the municipality,
210 then from and after July 1, 2000, the municipality may charge an
211 additional fee for collection of the delinquent payment provided
212 the payment has been delinquent for ninety (90) days. The
213 collection fee may not exceed fifteen percent (15%) of the
214 delinquent payment if the collection is made within this state and
215 may not exceed twenty-five percent (25%) of the delinquent payment
216 if the collection is made outside this state. In conducting
217 collection of delinquent payments, the municipality may utilize
218 credit cards or electronic fund transfers. The municipality may
219 pay any service fees for the use of such methods of collection
220 from the collection fee, but not from the delinquent payment.
221 There shall be due to the municipality from any person whose
222 delinquent payment is collected under a contract executed as
223 provided in this subsection an amount, in addition to the
224 delinquent payment, of not to exceed twenty-five percent (25%) of
225 the delinquent payment for collections made within this state, and
226 not to exceed fifty percent (50%) of the delinquent payment for
227 collections made outside of this state.

228 (7) In addition to such authority as is otherwise granted
229 under this section, the governing authority of any municipality

230 may expend funds necessary to maintain and repair, and to purchase
231 liability insurance, tags and decals for, any personal property
232 acquired under the Federal Excess Personal Property Program that
233 is used by the local volunteer fire department.

234 (8) The governing authority of any municipality may, in its
235 discretion, donate personal property or funds to the public school
236 district or districts located in the municipality for the
237 promotion of educational programs of the district or districts
238 within the municipality.

239 (9) In addition to the authority to expend matching funds
240 under Section 21-19-65, the governing authority of any
241 municipality, in its discretion, may expend municipal funds to
242 match any state, federal or private funding for any program
243 administered by the State of Mississippi, the United States
244 government or any nonprofit organization that is exempt under 26
245 USCS Section 501(c)(3) from paying federal income tax.

246 (10) The governing authority of any municipality that owns
247 and operates a gas distribution system, as defined in Section
248 21-27-11(b), and the governing authority of any public natural gas
249 district are authorized to contract for the purchase of the supply
250 of natural gas for a term of up to ten (10) years with any public
251 nonprofit corporation which is organized under the laws of this
252 state or any other state.

253 (11) The governing authority of any municipality may perform
254 and exercise any duty, responsibility or function, may enter into
255 agreements and contracts, may provide and deliver any services or
256 assistance, and may receive, expend and administer any grants,
257 gifts, matching funds, loans or other monies, in accordance with
258 and as may be authorized by any federal law, rule or regulation
259 creating, establishing or providing for any program, activity or
260 service. The provisions of this subsection shall not be construed
261 as authorizing any municipality or the governing authority of such
262 municipality to perform any function or activity that is

263 specifically prohibited under the laws of this state or as
264 granting any authority in addition to or in conflict with the
265 provisions of any federal law, rule or regulation.

266 (12) (a) In addition to such authority as is otherwise
267 granted under this section, the governing authority of a
268 municipality, in its discretion, may sell, lease, donate or
269 otherwise convey property to any person or legal entity without
270 public notice, without having to advertise for and accept
271 competitive bids and without appraisal, with or without
272 consideration, and on such terms and conditions as the parties may
273 agree if the governing authority finds and determines, by
274 resolution duly and lawfully adopted and spread upon its official
275 minutes:

276 (i) The subject property is real property acquired
277 by the municipality:

278 1. By reason of a tax sale;

279 2. Because the property was abandoned or
280 blighted; or

281 3. In a proceeding to satisfy a municipal
282 lien against the property;

283 (ii) The subject property is blighted and is
284 located in a blighted area;

285 (iii) The subject property is not needed for
286 governmental or related purposes and is not to be used in the
287 operation of the municipality;

288 (iv) That the sale of the property in the manner
289 otherwise provided by law is not necessary or desirable for the
290 financial welfare of the municipality; and

291 (v) That the use of the property for the purpose
292 for which it is to be conveyed will promote and foster the
293 development and improvement of the community in which it is
294 located or the civic, social, educational, cultural, moral,

295 economic or industrial welfare thereof; the purpose for which the
296 property is conveyed shall be stated.

297 (b) All costs associated with a conveyance under this
298 subsection shall be paid by the person or entity to whom the
299 conveyance is made.

300 (c) Any deed or instrument of conveyance executed
301 pursuant to the authority granted under this subsection shall
302 contain a clause of reverter providing that title to the property
303 will revert to the municipality if the person or entity to whom
304 the property is conveyed does not fulfill the purpose for which
305 the property was conveyed and satisfy all conditions imposed on
306 the conveyance within two (2) years of the date of the conveyance.

307 (d) In any such deed or instrument of conveyance, the
308 municipality shall retain all mineral rights that it owns,
309 together with the right of ingress and egress to remove same.

310 (13) The powers conferred by this section shall be in
311 addition and supplemental to the powers conferred by any other
312 law, and nothing contained in this section shall be construed to
313 prohibit, or to prescribe conditions concerning, any practice or
314 practices authorized under any other law.

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