

By: Senator(s) Horhn

To: County Affairs;
MunicipalitiesCOMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 2385

1 AN ACT TO CREATE SECTION 17-25-4, MISSISSIPPI CODE OF 1972,
2 TO AUTHORIZE A COUNTY OR MUNICIPALITY TO DONATE SURPLUS PROPERTY
3 LOCATED IN A BLIGHTED AREA TO A PRIVATE DEVELOPER FOR A NOMINAL
4 SUM; TO AMEND SECTIONS 19-7-3 AND 21-17-1, MISSISSIPPI CODE OF
5 1972, TO CONFORM; AND FOR RELATED PURPOSES.

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

7 **SECTION 1.** The following shall be codified as Section

8 17-25-4, Mississippi Code of 1972:

9 17-25-4. Whenever the governing authority of a county or
10 municipality shall find and determine, by resolution duly and
11 lawfully adopted and spread upon its minutes, that county or
12 municipally owned real property is blighted, is located in a
13 blighted area, and is not used for county or municipal purposes
14 and therefore is surplus property as set forth in this section:

15 (a) The governing authority may convey such lands to a
16 private developer for private profit for a nominal consideration.
17 Any deed or conveyance executed pursuant hereto may, in the
18 discretion of the governing authority, contain a clause of
19 reverter providing that title shall revert to the county or
20 municipality in the event the private developer has not developed
21 the property within a period of ten (10) years. In any such deed
22 or conveyance, the county or municipality shall retain all mineral
23 rights that it owns, together with the right of ingress and egress
24 to remove same;

25 (b) In the event the governing authority does not wish
26 to donate title to such lands to the private developer, but wishes
27 to retain title to the lands, the governing authority may lease
28 the lands to a private developer described in paragraph (a) for

29 less than fair market value on such terms as the governing
30 authority may negotiate with the private developer, provided that
31 the lease shall contain a clause terminating the lease if the
32 property is not developed within two (2) years;

33 (c) For the purposes of this section, "surplus
34 property" is property that has been found by the governing
35 authority of the county or municipality, by resolution duly and
36 lawfully adopted and spread upon its minutes, (i) that the real
37 property is no longer needed for governmental or related purposes
38 and is not to be used in the operation of the county or
39 municipality, (ii) that the sale of such property in the manner
40 otherwise provided by law is not necessary or desirable for the
41 financial welfare of the county or municipality, (iii) that the
42 use of such property for the purpose for which it is to be sold,
43 conveyed or leased will accrue back to the benefit of the local
44 tax base and will promote and foster the development and
45 improvement of the community in which it is located and the civic,
46 social, educational, cultural, moral, economic or industrial
47 welfare thereof and (iv) that the property is blighted property
48 and is located in a blighted area;

49 (d) This section does not authorize the use of eminent
50 domain, but only applies to blighted, surplus property owned by
51 the county or municipality.

52 **SECTION 2.** Section 19-7-3, Mississippi Code of 1972, is
53 amended as follows:

54 19-7-3. (1) In case any of the real estate belonging to the
55 county shall cease to be used for county purposes, the board of
56 supervisors may sell, convey or lease the same on such terms as
57 the board may elect and may, in addition, exchange the same for
58 real estate belonging to any other political subdivision located
59 within the county. In case of a sale on a credit, the county
60 shall have a lien on the same for the purchase money, as against
61 all persons, until paid and may enforce the lien as in such cases

62 provided by law. The deed of conveyance in such cases shall be
63 executed in the name of the county by the president of the board
64 of supervisors, pursuant to an order of the board entered on its
65 minutes.

66 (2) (a) Before any lease, deed or conveyance is executed,
67 the board shall publish at least once each week for three (3)
68 consecutive weeks, in a public newspaper of the county in which
69 the land is located, or if no newspaper be published in said
70 county then in a newspaper having general circulation therein, the
71 intention to lease or sell, as the case may be, the county-owned
72 land and to accept sealed competitive bids for the leasing or
73 sale. The board shall thereafter accept bids for the lease or
74 sale and shall award the lease to the highest bidder in the manner
75 provided by law.

76 (b) The board of supervisors of any county may contract
77 for the professional services of a Mississippi-licensed real
78 estate broker to assist in the marketing and sale or lease of the
79 property for a reasonable commission, consistent with or lower
80 than the market rate, for services rendered to be paid from the
81 sale or lease proceeds.

82 (3) Whenever the board of supervisors shall find and
83 determine, by resolution duly and lawfully adopted and spread upon
84 its minutes (a) that any county-owned property is no longer needed
85 for county or related purposes and is not to be used in the
86 operation of the county, (b) that the sale of the property in the
87 manner otherwise provided by law is not necessary or desirable for
88 the financial welfare of the county, and (c) that the use of the
89 county property for the purpose for which it is to be sold,
90 conveyed or leased will promote and foster the development and
91 improvement of the community in which it is located and the civic,
92 social, educational, cultural, moral, economic or industrial
93 welfare thereof, the board of supervisors of such county shall be
94 authorized and empowered, in its discretion, to sell, convey,

95 lease, or otherwise dispose of same for any of the purposes set
96 forth herein.

97 (4) Nothing contained in this section shall be construed to
98 prohibit, restrict or to prescribe conditions with regard to the
99 authority granted under Section 17-25-3, Section 17-25-4 or
100 Section 57-75-37.

101 **SECTION 3.** Section 21-17-1, Mississippi Code of 1972, is
102 amended as follows:

103 21-17-1. (1) Every municipality of this state shall be a
104 municipal corporation and shall have power to sue and be sued; to
105 purchase and hold real estate, either within or without the
106 corporate limits, for all proper municipal purposes, including
107 parks, cemeteries, hospitals, schoolhouses, houses of correction,
108 waterworks, electric lights, sewers and other proper municipal
109 purposes; to purchase and hold personal property for all proper
110 municipal purposes; to acquire equipment and machinery by
111 lease-purchase agreement and to pay interest thereon, if
112 contracted, when needed for proper municipal purposes; to sell and
113 convey any real and personal property owned by it, and make such
114 order respecting the same as may be deemed conducive to the best
115 interest of the municipality, and exercise jurisdiction over the
116 same.

117 (2) (a) In case any of the real property belonging to a
118 municipality shall cease to be used for municipal purposes, the
119 governing authority of the municipality may sell, convey or lease
120 the same on such terms as the municipal authority may elect. In
121 case of a sale on a credit, the municipality shall charge
122 appropriate interest as contracted and shall have a lien on the
123 same for the purchase money, as against all persons, until paid
124 and may enforce the lien as in such cases provided by law. The
125 deed of conveyance in such cases shall be executed in the name of
126 the municipality by the governing authority of the municipality
127 pursuant to an order entered on the minutes. In any sale or

conveyance of real property, the municipality shall retain all mineral rights that it owns, together with the right of ingress and egress to remove same. Except as otherwise provided in this section, before any such lease, deed or conveyance is executed, the governing authority of the municipality shall publish at least once each week for three (3) consecutive weeks, in a public newspaper of the municipality in which the real property is located, or if no newspaper be published as such, then in a newspaper having general circulation therein, the intention to lease or sell, as the case may be, the municipally owned real property and to accept sealed competitive bids for the leasing or sale. The governing authority of the municipality shall thereafter accept bids for the lease or sale and shall award the lease or sale to the highest bidder in the manner provided by law. However, whenever the governing authority of the municipality shall find and determine, by resolution duly and lawfully adopted and spread upon its minutes (i) that any municipally owned real property is no longer needed for municipal or related purposes and is not to be used in the operation of the municipality, (ii) that the sale of such property in the manner otherwise provided by law is not necessary or desirable for the financial welfare of the municipality, and (iii) that the use of such property for the purpose for which it is to be sold, conveyed or leased will promote and foster the development and improvement of the community in which it is located and the civic, social, educational, cultural, moral, economic or industrial welfare thereof, the governing authority of the municipality shall be authorized and empowered, in its discretion, to sell, convey or lease same for any of the purposes set forth herein without having to advertise for and accept competitive bids.

(b) In any case in which a municipality proposes to sell, convey or lease real property under the provisions of this subsection (2) without advertising for and accepting competitive

161 bids, the governing authority may sell, convey or lease the
162 property as follows:

163 (i) Consideration for the purchase, conveyance or
164 lease of the property shall be not less than the average of the
165 fair market price for such property as determined by three (3)
166 professional property appraisers selected by the municipality and
167 approved by the purchaser or lessee. Appraisal fees shall be
168 shared equally by the municipality and the purchaser or lessee; or

169 (ii) The governing authority of a municipality may
170 contract for the professional services of a Mississippi licensed
171 real estate broker to assist the municipality in the marketing and
172 sale or lease of the property, and may provide the broker
173 reasonable compensation for services rendered to be paid from the
174 sale or lease proceeds. The reasonable compensation shall not
175 exceed the usual and customary compensation for similar services
176 within the municipality.

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

182 (a) The governing authority may donate such lands to a
183 bona fide not-for-profit civic or eleemosynary corporation
184 organized and existing under the laws of the State of Mississippi
185 and granted tax exempt status by the Internal Revenue Service and
186 may donate such lands and necessary funds related thereto to the
187 public school district in which the land is situated for the
188 purposes set forth herein. Any deed or conveyance executed
189 pursuant hereto shall contain a clause of reverter providing that
190 the bona fide not-for-profit corporation or public school district
191 may hold title to such lands only so long as they are continued to
192 be used for the civic, social, educational, cultural, moral,
193 economic or industrial welfare of the community, and that title

shall revert to the municipality in the event of the cessation of such use for a period of two (2) years. In any such deed or conveyance, the municipality shall retain all mineral rights that it owns, together with the right of ingress and egress to remove same;

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

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

(4) Nothing contained in this section * * * shall be construed to prohibit, restrict or to prescribe conditions with regard to the authority granted under Section 17-25-3 or Section 17-25-4.

(5) Every municipality shall also be authorized and empowered to loan to private persons or entities, whether organized for profit or nonprofit, funds received from the United States Department of Housing and Urban Development (HUD) under an urban development action grant or a community development block grant under the Housing and Community Development Act of 1974 (Public Law 93-383), as amended, and to charge interest thereon if contracted, provided that no such loan shall include any funds from any revenues other than the funds from the United States Department of Housing and Urban Development; to make all contracts and do all other acts in relation to the property and affairs of

the municipality necessary to the exercise of its governmental, corporate and administrative powers; and to exercise such other or further powers as are otherwise conferred by law.

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

(b) Participation in the program established under this subsection (6) shall be available to any eligible municipal employee as determined by the governing authority of the municipality. Any person who receives financial assistance under the program must purchase a house and reside within certain geographic boundaries as determined by the governing authority of the municipality.

(c) If the assistance authorized under this subsection (6) is structured as a forgivable loan, the participating employee must remain as an employee of the municipality for an agreed upon period of time, as determined by the rules and regulations adopted by the governing authority of the municipality, in order to have the loan forgiven. The forgiveness structure, amount of assistance and repayment terms shall be determined by the governing authority of the municipality.

(7) The governing authority of any municipality may contract with a private attorney or private collection agent or agency to

260 collect any type of delinquent payment owed to the municipality,
261 including, but not limited to, past due fees and fines. Any such
262 contract debt may provide for payment contingent upon successful
263 collection efforts or payment based upon a percentage of the
264 delinquent amount collected; however, the entire amount of all
265 delinquent payments collected shall be remitted to the
266 municipality and shall not be reduced by any collection costs or
267 fees. Any private attorney or private collection agent or agency
268 contracting with the municipality under the provisions of this
269 subsection shall give bond or other surety payable to the
270 municipality in such amount as the governing authority of the
271 municipality deems sufficient. Any private attorney with whom the
272 municipality contracts under the provisions of this subsection
273 must be a member in good standing of The Mississippi Bar. Any
274 private collection agent or agency with whom the municipality
275 contracts under the provisions of this subsection must meet all
276 licensing requirements for doing business in the State of
277 Mississippi. Neither the municipality nor any officer or employee
278 of the municipality shall be liable, civilly or criminally, for
279 any wrongful or unlawful act or omission of any person or business
280 with whom the municipality has contracted under the provisions of
281 this subsection. The Mississippi Department of Audit shall
282 establish rules and regulations for use by municipalities in
283 contracting with persons or businesses under the provisions of
284 this subsection. If a municipality uses its own employees to
285 collect any type of delinquent payment owed to the municipality,
286 then from and after July 1, 2000, the municipality may charge an
287 additional fee for collection of the delinquent payment provided
288 the payment has been delinquent for ninety (90) days. The
289 collection fee may not exceed fifteen percent (15%) of the
290 delinquent payment if the collection is made within this state and
291 may not exceed twenty-five percent (25%) of the delinquent payment
292 if the collection is made outside this state. In conducting

293 collection of delinquent payments, the municipality may utilize
294 credit cards or electronic fund transfers. The municipality may
295 pay any service fees for the use of such methods of collection
296 from the collection fee, but not from the delinquent payment.
297 There shall be due to the municipality from any person whose
298 delinquent payment is collected under a contract executed as
299 provided in this subsection an amount, in addition to the
300 delinquent payment, of not to exceed twenty-five percent (25%) of
301 the delinquent payment for collections made within this state, and
302 not to exceed fifty percent (50%) of the delinquent payment for
303 collections made outside of this state.

304 (8) In addition to such authority as is otherwise granted
305 under this section, the governing authority of any municipality
306 may expend funds necessary to maintain and repair, and to purchase
307 liability insurance, tags and decals for, any personal property
308 acquired under the Federal Excess Personal Property Program that
309 is used by the local volunteer fire department.

310 (9) The governing authority of any municipality may, in its
311 discretion, donate personal property or funds to the public school
312 district or districts located in the municipality for the
313 promotion of educational programs of the district or districts
314 within the municipality.

315 (10) In addition to the authority to expend matching funds
316 under Section 21-19-65, the governing authority of any
317 municipality, in its discretion, may expend municipal funds to
318 match any state, federal or private funding for any program
319 administered by the State of Mississippi, the United States
320 government or any nonprofit organization that is exempt under 26
321 USCS Section 501(c)(3) from paying federal income tax.

322 (11) The governing authority of any municipality that owns
323 and operates a gas distribution system, as defined in Section
324 21-27-11(b), and the governing authority of any public natural gas
325 district are authorized to contract for the purchase of the supply

326 of natural gas for a term of up to ten (10) years with any public
327 nonprofit corporation which is organized under the laws of this
328 state or any other state.

329 (12) The powers conferred by this section shall be in
330 addition and supplemental to the powers conferred by any other
331 law, and nothing contained in this section shall be construed to
332 prohibit, or to prescribe conditions concerning, any practice or
333 practices authorized under any other law.

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