

By: Senator(s) Horhn

To: County Affairs;  
Municipalities

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 shall contain a  
18 clause of reverter providing that title shall revert to the county  
19 or municipality in the event the private developer has not  
20 developed the property within a period of ten (10) years. In any  
21 such deed or conveyance, the county or municipality shall retain  
22 all mineral rights that it owns, together with the right of  
23 ingress and egress to remove same;

24 (b) In the event the governing authority does not wish  
25 to donate title to such lands to the private developer, but wishes  
26 to retain title to the lands, the governing authority may lease  
27 the lands to a private developer described in paragraph (a) for  
28 less than fair market value on such terms as the governing

29 authority may negotiate with the private developer, provided that  
30 the lease shall contain a clause terminating the lease if the  
31 property is not developed within two (2) years;

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

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

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

53 19-7-3. (1) In case any of the real estate belonging to the  
54 county shall cease to be used for county purposes, the board of  
55 supervisors may sell, convey or lease the same on such terms as  
56 the board may elect and may, in addition, exchange the same for  
57 real estate belonging to any other political subdivision located  
58 within the county. In case of a sale on a credit, the county  
59 shall have a lien on the same for the purchase money, as against  
60 all persons, until paid and may enforce the lien as in such cases  
61 provided by law. The deed of conveyance in such cases shall be

62 executed in the name of the county by the president of the board  
63 of supervisors, pursuant to an order of the board entered on its  
64 minutes.

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

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

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

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

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

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

102 21-17-1. (1) Every municipality of this state shall be a  
103 municipal corporation and shall have power to sue and be sued; to  
104 purchase and hold real estate, either within or without the  
105 corporate limits, for all proper municipal purposes, including  
106 parks, cemeteries, hospitals, schoolhouses, houses of correction,  
107 waterworks, electric lights, sewers and other proper municipal  
108 purposes; to purchase and hold personal property for all proper  
109 municipal purposes; to acquire equipment and machinery by  
110 lease-purchase agreement and to pay interest thereon, if  
111 contracted, when needed for proper municipal purposes; to sell and  
112 convey any real and personal property owned by it, and make such  
113 order respecting the same as may be deemed conducive to the best  
114 interest of the municipality, and exercise jurisdiction over the  
115 same.

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

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

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

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

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

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

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

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

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

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

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

211 (4) Nothing contained in this section \* \* \* shall be  
212 construed to prohibit, restrict or to prescribe conditions with  
213 regard to the authority granted under Section 17-25-3 or Section  
214 17-25-4.

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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