

By: Senator(s) Horhn, Frazier

To: Municipalities;  
Judiciary, Division A

SENATE BILL NO. 2806

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

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

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

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

79 (b) If the governing authority succeeds to title  
80 ownership of the property, the governing authority, in lieu of  
81 selling the property as provided herein, may quitclaim the surplus  
82 property in accord with Section 1 of Senate Bill No. 2806, 2007  
83 Regular Session.

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

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

89 (a) Form of personal notice:

90 "I have this day delivered the within notice  
91 personally, by delivering to the within named property  
92 owner, \_\_\_\_\_ (here state name of party  
93 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

126 made, then service shall also be made by publication as provided  
127 in subsection (1) of this section.

128 (6) The officer shall mark on all notices the day of the  
129 receipt thereof by him, and he shall return the same on or before  
130 the day of the hearing, with a written statement of his  
131 proceedings thereon. For failing to note the time of the receipt  
132 of notice or for failing to return the same, the officer shall  
133 forfeit to the party aggrieved the sum of Twenty-five Dollars  
134 (\$25.00).

135 (7) Nothing contained under this section shall prevent any  
136 municipality from enacting criminal penalties for failure to  
137 maintain property so as not to constitute a menace to public  
138 health, safety and welfare.

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

141 21-19-20. (1) (a) A municipality shall institute  
142 proceedings to have demolished an abandoned house or building that  
143 is used for the sale or use of drugs. The local law enforcement  
144 authority of the municipality shall have documented proof of drug  
145 sales or use in the abandoned property before a municipality may  
146 initiate proceedings to have the property demolished.

147 (b) (i) A municipality shall institute proceedings to  
148 have an abandoned house or building demolished if the governing  
149 authority of the municipality determines that the house or  
150 building is a menace to the public health and safety of the  
151 community and that it constitutes a public hazard and nuisance.

152 (ii) Upon the receipt of a petition requesting the  
153 municipality to demolish an abandoned house or building that  
154 constitutes a public hazard and nuisance signed by a majority of  
155 the residents residing within four hundred (400) feet of the  
156 property, the governing authority of the municipality shall notify  
157 the property owner that the petition has been filed and that a  
158 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 accord with Section 1 of Senate Bill No. 2806, 2007  
197 Regular Session.

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