

By: Representatives Myers, Perkins,  
Cockerham

To: Municipalities

HOUSE BILL NO. 768  
(As Sent to Governor)

1 AN ACT TO AMEND SECTION 21-19-11, MISSISSIPPI CODE OF 1972,  
2 TO CLARIFY THE AUTHORITY OF A MUNICIPALITY TO REGULATE DILAPIDATED  
3 PROPERTY WITHIN THE MUNICIPALITY; AND FOR RELATED PURPOSES.

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

5 **SECTION 1.** Section 21-19-11, Mississippi Code of 1972, is  
6 amended as follows:

7 21-19-11. (1) The governing authority of any municipality  
8 is authorized, on its own motion, or upon the receipt of a  
9 petition requesting the municipal authority to so act signed by a  
10 majority of the residents residing within four hundred (400) feet  
11 of any property or parcel of land alleged to be in need of  
12 cleaning, to give notice to the property owner by United States  
13 mail, as provided in this section, two (2) weeks before the date  
14 of a hearing, or by service of notice as provided in this section  
15 by a police officer at least two (2) weeks before the date of a  
16 hearing, or if the property owner or his address is unknown, then  
17 by two (2) weeks' notice in a newspaper having a general  
18 circulation in the municipality, of a hearing to determine  
19 whether \* \* \* the property or land is in such a state of  
20 uncleanliness as to be a menace to the public health, safety and  
21 welfare of the community. If, at such hearing, the governing  
22 authority shall adjudicate the property or land in its then  
23 condition to be a menace to the public health, safety and welfare  
24 of the community, the governing authority \* \* \*, if the owner does  
25 not do so himself, shall proceed to clean the land, by the use of  
26 municipal employees or by contract, by cutting grass and weeds;  
27 filling cisterns; removing rubbish, dilapidated fences, outside



28 toilets, dilapidated buildings, personal property, which removal  
29 of personal property shall not be subject to the provisions of  
30 Section 21-39-21, and other debris; and draining cesspools and  
31 standing water therefrom. \* \* \* The governing authority may \* \* \*  
32 by resolution adjudicate the actual cost of cleaning the property  
33 and may also impose a penalty of One Thousand Five Hundred Dollars  
34 (\$1,500.00) or fifty percent (50%) of the actual cost, whichever  
35 is more. The cost and any penalty may become a civil debt against  
36 the property owner, or, at the option of the governing authority,  
37 an assessment against the property. The "cost assessed against  
38 the property" means either the cost to the municipality of using  
39 its own employees to do the work or the cost to the municipality  
40 of any contract executed by the municipality to have the work  
41 done, and administrative costs and legal costs of the  
42 municipality. The action \* \* \* authorized in this subsection (1)  
43 shall not be undertaken against any one (1) parcel of land more  
44 than six (6) times in any twelve-month period with respect to  
45 removing dilapidated buildings, dilapidated fences and outside  
46 toilets and no more than twelve (12) times in any  
47 twenty-four-month period with respect to cutting grass and weeds  
48 and removing rubbish, personal property and other debris on the  
49 land, and the expense of cleaning of said property shall not  
50 exceed an aggregate amount of Twenty Thousand Dollars (\$20,000.00)  
51 per year, or the fair market value of the property subsequent to  
52 cleaning, whichever is less. \* \* \* The governing authority may  
53 assess the same penalty for each time the property or land is  
54 cleaned as otherwise provided in this section. The penalty  
55 provided herein shall not be assessed against the State of  
56 Mississippi upon request for reimbursement under Section 29-1-145,  
57 nor shall a municipality clean a parcel owned by the State of  
58 Mississippi without first giving notice.

59 (2) In the event the governing authority declares, by  
60 resolution, that the cost and any penalty shall be collected as a



61 civil debt, the governing authority may authorize the institution  
62 of a suit on open account against the owner of the property in a  
63 court of competent jurisdiction in the manner provided by law for  
64 the cost and any penalty, plus court costs, reasonable attorney's  
65 fees and interest from the date that the property was cleaned.

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

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

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

80 (a) Form of personal notice:

81 "I have this day delivered the within notice  
82 personally, by delivering to the within named property  
83 owner, \_\_\_\_\_ (here state name of party  
84 summoned), a true copy of this notice.

85 This, the \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

86 \_\_\_\_\_ (Police Officer)"

87 (b) Form of notice where copy left at residence:

88 "I have this day delivered the within notice to  
89 \_\_\_\_\_, within named property owner, by  
90 leaving a true copy of the same at his (or her) usual  
91 place of abode in my municipality, with  
92 \_\_\_\_\_, his (or her) (here insert wife,  
93 husband, son, daughter or some other person, as the case



94 may be), \_\_\_\_\_ a member of his (or her)  
95 family above the age of sixteen (16) years, and willing  
96 to receive such copy. The said property owner is not  
97 found in my municipality.

98 This, the \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_.  
99 \_\_\_\_\_ (Police Officer)"

100 (c) Form of return when property owner not found within  
101 municipality and is a nonresident thereof:

102 "I have this day attempted to deliver the within  
103 notice to \_\_\_\_\_, the within named property  
104 owner, and after diligent search and inquiry, I failed  
105 to find the same property owner within my municipality,  
106 nor could I ascertain the location of any residence of  
107 the property owner within my municipality.

108 This, the \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_.  
109 \_\_\_\_\_ (Police Officer)"

110 The first mode of notice should be made, if it can be; if  
111 not, then the second mode should be made, if it can be; and the  
112 return of the second mode of service must negate the officer's  
113 ability to make the first. If neither the first nor second mode  
114 of service can be made, then the third mode should be made, and  
115 the return thereof must negate the officer's ability to make both  
116 the first and second. In the event the third mode of service is  
117 made, then service shall also be made by publication as provided  
118 in subsection (1) of this section.

119 (6) The officer shall mark on all notices the day of the  
120 receipt thereof by him, and he shall return the same on or before  
121 the day of the hearing, with a written statement of his  
122 proceedings thereon. For failing to note the time of the receipt  
123 of notice or for failing to return the same, the officer shall  
124 forfeit to the party aggrieved the sum of Twenty-five Dollars  
125 (\$25.00).



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

130 (8) In the event that notice is provided to the property  
131 owner by United States mail, the municipality shall include,  
132 together with a notice of the hearing, an acknowledgment in the  
133 form set forth below and a return envelope, postage prepaid,  
134 addressed to the sender.

135 (a) The acknowledgment shall be in substantially the  
136 following form:

137 ACKNOWLEDGEMENT OF NOTICE OF HEARING

138 TO: [Name and Address]

139 The enclosed Notice of Hearing is given to you as owner of  
140 the property located at [Insert address], pursuant to Section  
141 21-19-11 of the Mississippi Code.

142 You must sign and date this acknowledgement at the bottom of  
143 this page. If you have received notice on behalf of a  
144 corporation, unincorporated association (including a partnership),  
145 or other entity, you must indicate under your signature your  
146 relationship to that entity. If you have received notice on  
147 behalf of another person and you are authorized to receive such  
148 notice, you must indicate under your signature your authority.

149 If you do not complete and return this form to the sender  
150 within fourteen (14) days from the date of mailing shown below,  
151 another hearing date may be set and a notice of hearing to you  
152 will be published in a newspaper of general circulation in this  
153 area.

154 I declare that the notice with this acknowledgement was  
155 mailed on [Date of Mailing]

156 \_\_\_\_\_  
157 Signature



158 THIS ACKNOWLEDGEMENT OF RECEIPT OF NOTICE OF HEARING MUST BE  
159 COMPLETED.

160 I acknowledge that I have received a copy of the Notice of  
161 Hearing of the City/County of [Insert City/County], Mississippi,  
162 to be held on [Insert Date] at [Insert Address of Hearing].

163 \_\_\_\_\_

164 Signature

165 Relationship to Entity/Authority to Receive  
166 Notice of Hearing, if applicable

167 Date of Signature

168 (b) In the event the acknowledgement is not returned  
169 within fourteen (14) days of the date of mailing, then service  
170 shall also be made by publication as provided in subsection (1) of  
171 this section.

172 **SECTION 2.** This act shall take effect and be in force from  
173 and after July 1, 2009.

