

By: Representative Rushing

To: Municipalities

HOUSE BILL NO. 1114

1 AN ACT TO AMEND SECTION 21-19-11, MISSISSIPPI CODE OF 1972,
 2 TO AUTHORIZE THE GOVERNING AUTHORITY OF ANY MUNICIPALITY WITH A
 3 POPULATION IN EXCESS OF 25,000 TO CLEAN MENACED PROPERTY THAT IS
 4 ONE ACRE OR LESS IF THE COSTS OF THE CLEANING DOES NOT EXCEED
 5 \$250.00; TO PROVIDE THAT THE DETERMINATION OF WHETHER THE PROPERTY
 6 IS A MENACE SHALL BE MADE BY A MUNICIPAL OFFICER OR OFFICIAL WHO
 7 IS EMPOWERED TO MAKE SUCH DETERMINATION BY THE GOVERNING
 8 AUTHORITY; TO REQUIRE THE MUNICIPALITY TO PROVIDE CERTAIN NOTICE
 9 TO THE PROPERTY OWNER BEFORE THE CLEANING MAY BE COMMENCED; TO
 10 PROVIDE THAT THE CLEANING OF THE PROPERTY MAY BECOME A CIVIL DEBT
 11 AGAINST THE PROPERTY OWNER, AND/OR, AT THE OPTION OF THE GOVERNING
 12 AUTHORITY, AN ASSESSMENT AGAINST THE PROPERTY; TO AUTHORIZE
 13 SUBSEQUENT CLEANING OF MENACED PROPERTY, WITHIN A CERTAIN TIME
 14 FRAME, BY A MUNICIPALITY AFTER A DETERMINATION IS MADE BY A
 15 MUNICIPAL OFFICER OR OFFICIAL THAT SUCH CLEANING IS NEEDED AND
 16 AFTER CERTAIN NOTICE IS PROVIDED TO THE PROPERTY OWNER; TO PROVIDE
 17 THAT THE EXPENSE OF CLEANING MENACED PROPERTY SHALL NOT EXCEED AN
 18 AGGREGATE AMOUNT OF \$1,000.00; TO PROVIDE THE APPEALS PROCESS
 19 CONCERNING THE DECISION OF A MUNICIPAL OFFICER OR OFFICIAL
 20 REGARDING THE PROPERTY; AND FOR RELATED PURPOSES.

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

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

24 21-19-11. (1) To determine whether property or parcel of
 25 land located within a municipality is in such a state of
 26 uncleanliness as to be a menace to the public health, safety and
 27 welfare of the community, a governing authority of any



28 municipality shall conduct a hearing, on its own motion, or upon
29 the receipt of a petition signed by a majority of the residents
30 residing within four hundred (400) feet of any property or parcel
31 of land alleged to be in need of the cleaning. Notice shall be
32 provided to the property owner by:

33 (a) United States mail two (2) weeks before the date of
34 the hearing mailed to the address of the subject property and to
35 the address where the ad valorem tax notice for such property is
36 sent by the office charged with collecting ad valorem tax; and

37 (b) Posting notice for at least two (2) weeks before
38 the date of a hearing on the property or parcel of land alleged to
39 be in need of cleaning and at city hall or another place in the
40 municipality where such notices are posted.

41 Any notice required by this section shall include language
42 that informs the property owner that an adjudication at the
43 hearing that the property or parcel of land is in need of cleaning
44 will authorize the municipality to reenter the property or parcel
45 of land for a period of one (1) year after final adjudication
46 without any further hearing if notice is posted on the property or
47 parcel of land and at city hall or another place in the
48 municipality where such notices are generally posted at least
49 seven (7) days before the property or parcel of land is reentered
50 for cleaning. A copy of the required notice mailed and posted as
51 required by this section shall be recorded in the minutes of the



52 governing authority in conjunction with the hearing required by
53 this section.

54 If, at such hearing, the governing authority shall adjudicate
55 the property or parcel of land in its then condition to be a
56 menace to the public health, safety and welfare of the community,
57 the governing authority, if the owner does not do so himself,
58 shall proceed to clean the land, by the use of municipal employees
59 or by contract, by cutting grass and weeds; filling cisterns;
60 removing rubbish, abandoned or dilapidated fences, outside
61 toilets, abandoned or dilapidated buildings, slabs, personal
62 property, which removal of personal property shall not be subject
63 to the provisions of Section 21-39-21, and other debris; and
64 draining cesspools and standing water therefrom. The governing
65 authority may by resolution adjudicate the actual cost of cleaning
66 the property and may also impose a penalty not to exceed One
67 Thousand Five Hundred Dollars (\$1,500.00) or fifty percent (50%)
68 of the actual cost, whichever is more. The cost and any penalty
69 may become a civil debt against the property owner, and/or, at the
70 option of the governing authority, an assessment against the
71 property. The "cost assessed against the property" means either
72 the cost to the municipality of using its own employees to do the
73 work or the cost to the municipality of any contract executed by
74 the municipality to have the work done, and administrative costs
75 and legal costs of the municipality. For subsequent cleaning
76 within the one-year period after the date of the hearing at which



77 the property or parcel of land was adjudicated in need of
78 cleaning, upon seven (7) days' notice posted both on the property
79 or parcel of land adjudicated in need of cleaning and at city hall
80 or another place in the municipality where such notices are
81 generally posted, and consistent with the municipality's
82 adjudication as authorized in this subsection (1), a municipality
83 may reenter the property or parcel of land to maintain cleanliness
84 without further notice or hearing no more than six (6) times in
85 any twelve-month period with respect to removing abandoned or
86 dilapidated buildings, slabs, dilapidated fences and outside
87 toilets, and no more than twelve (12) times in any
88 twenty-four-month period with respect to cutting grass and weeds
89 and removing rubbish, personal property and other debris on the
90 land, and the expense of cleaning of the property, except as
91 otherwise provided in this section for removal of hazardous
92 substances, shall not exceed an aggregate amount of Twenty
93 Thousand Dollars (\$20,000.00) per year, or the fair market value
94 of the property subsequent to cleaning, whichever is more. The
95 aggregate cost of removing hazardous substances will be the actual
96 cost of such removal to the municipality and shall not be subject
97 to the Twenty Thousand Dollar (\$20,000.00) limitation provided in
98 this subsection. The governing authority may assess the same
99 penalty for each time the property or land is cleaned as otherwise
100 provided in this section. The penalty provided herein shall not
101 be assessed against the State of Mississippi upon request for



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

105 (2) (a) When the cost to clean property or a parcel of land
106 that is one (1) acre or less and located within a municipality
107 having a population in excess of twenty-five thousand (25,000)
108 shall not exceed Two Hundred Fifty Dollars (\$250.00) (exclusive of
109 administrative costs), the governing authority of such
110 municipality may authorize or empower one or more of its municipal
111 officers or officials to make a determination whether the property
112 or a parcel of land is in such a state of uncleanliness as to be a
113 menace to the public health, safety and welfare of the community
114 and such a determination made by the appropriate officer or
115 official shall be set forth and recorded in the minutes of the
116 governing authority. Notice of this determination shall be
117 provided to the property owner by:

118 (i) United States mail seven (7) days before the
119 date of cleaning of the property or parcel of land mailed to the
120 address of the subject property and to the address where the ad
121 valorem tax notice for such property is sent by the office charged
122 with collecting ad valorem tax; and

123 (ii) Posting notice for at least seven (7) days
124 before the cleaning of the property or parcel of land at city hall
125 or another place in the municipality where such notices are
126 posted.



127 (b) Any notice required by this subsection shall
128 include language that informs the property owner that the
129 appropriate municipal officer or official has determined that the
130 property or parcel of land is a menace to the public health,
131 safety and welfare of the community and in need of cleaning and
132 the municipality is authorized to enter the property for cleaning
133 and that the municipality is further authorized to reenter the
134 property or parcel of land for a period of one (1) year after this
135 cleaning without any further hearing or action if notice is posted
136 on the property or parcel of land and at city hall or another
137 place in the municipality where such notices are generally posted
138 at least seven (7) days before the property or parcel of land is
139 reentered for cleaning. A copy of the required notice mailed and
140 posted, as required by this subsection, shall be recorded in the
141 minutes of the governing authority in conjunction with the
142 determination made by the municipal official in this subsection
143 (2).

144 (c) If an appropriate municipal officer or official
145 determines that the condition of property or parcel of land is a
146 menace to the public health, safety and welfare of the community,
147 the governing authority, if the owner does not do so himself,
148 shall proceed to clean the land, by the use of municipal employees
149 or by contract, by cutting grass and weeds; filling cisterns;
150 removing rubbish, abandoned or dilapidated fences, outside
151 toilets, abandoned or dilapidated buildings, slabs, personal



152 property, which removal of personal property shall not be subject
153 to the provisions of Section 21-39-21, and other debris; and
154 draining cesspools and standing water therefrom. The governing
155 authority shall by resolution adjudicate the actual cost of
156 cleaning the property under this provision, provided the same does
157 not exceed Two Hundred Fifty Dollars (\$250.00). The cost may
158 become a civil debt against the property owner, and/or, at the
159 option of the governing authority, an assessment against the
160 property. The "cost assessed against the property" means either
161 the cost to the municipality of using its own employees to do the
162 work or the cost to the municipality of any contract executed by
163 the municipality to have the work done, and additionally may
164 include administrative costs of the municipality not to exceed
165 Fifty Dollars (\$50.00). For subsequent cleaning within the
166 one-year period set forth in this subsection (2), upon seven (7)
167 days' notice posted both on the property or parcel of land
168 adjudicated in need of cleaning and at city hall or another place
169 in the municipality where such notices are generally posted, and
170 consistent with the municipal officer's or official's
171 determination, as authorized in this subsection (2), a
172 municipality may reenter the property or parcel of land to
173 maintain cleanliness without further notice or hearing under this
174 subsection (2) no more than six (6) times in any twelve-month
175 period with respect to removing abandoned or dilapidated
176 buildings, slabs, dilapidated fences and outside toilets, and no



177 more than twelve (12) times in any twenty-four-month period with
178 respect to cutting grass and weeds and removing rubbish, personal
179 property and other debris on the land, and the expense of cleaning
180 of the property shall not exceed an aggregate amount of One
181 Thousand Dollars (\$1,000.00) per year under this subsection (2).
182 The governing authority may assess the same penalty for each time
183 the property or land is cleaned as otherwise provided in this
184 subsection (2). The penalty provided in this subsection shall not
185 be assessed against the State of Mississippi upon request for
186 reimbursement under Section 29-1-145, nor shall a municipality
187 clean a parcel owned by the State of Mississippi without first
188 giving notice. A determination made by an appropriate municipal
189 officer or official under this subsection (2) that the state or
190 condition of property or a parcel of land is a menace to the
191 public health, safety and welfare of the community shall not
192 subsequently be used to replace a hearing if subsection (1) of
193 this section is later utilized by a municipality when the
194 prerequisites of subsection (2) are not satisfied.

195 (* * *3) If the governing authority declares, by
196 resolution, that the cost and any penalty shall be collected as a
197 civil debt, the governing authority may authorize the institution
198 of a suit on open account against the owner of the property in a
199 court of competent jurisdiction in the manner provided by law for
200 the cost and any penalty, plus court costs, reasonable attorney's
201 fees and interest from the date that the property was cleaned.



202 (* * *4) (a) If the governing authority declares that the
203 cost and any penalty shall be collected as an assessment against
204 the property, then the assessment above provided for shall be a
205 lien against the property and may be enrolled in the office of the
206 circuit clerk of the county as other judgments are enrolled, and
207 the tax collector of the municipality shall, upon order of the
208 board of governing authorities, proceed to sell the land to
209 satisfy the lien as now provided by law for the sale of lands for
210 delinquent municipal taxes. The lien against the property shall
211 be an encumbrance upon the property and shall follow title of the
212 property.

213 (b) (i) All assessments levied under the provisions of
214 this section shall be included with municipal ad valorem taxes and
215 payment shall be enforced in the same manner in which payment is
216 enforced for municipal ad valorem taxes, and all statutes
217 regulating the collection of other taxes in a municipality shall
218 apply to the enforcement and collection of the assessments levied
219 under the provisions of this section, including utilization of the
220 procedures authorized under Sections 17-13-9(2) and 27-41-2.

221 (ii) All assessments levied under the provisions
222 of this section shall become delinquent at the same time municipal
223 ad valorem taxes become delinquent. Delinquencies shall be
224 collected in the same manner and at the same time delinquent ad
225 valorem taxes are collected and shall bear the same penalties as
226 those provided for delinquent taxes. If the property is sold for



227 the nonpayment of an assessment under this section, it shall be
228 sold in the manner that property is sold for the nonpayment of
229 delinquent ad valorem taxes. If the property is sold for
230 delinquent ad valorem taxes, the assessment under this section
231 shall be added to the delinquent tax and collected at the same
232 time and in the same manner.

233 (* * *5) All decisions rendered under the provisions of
234 this section may be appealed in the same manner as other appeals
235 from municipal boards or courts are taken; provided, that an
236 appeal from a decision of a municipal officer or official shall be
237 made to the governing authority and such appeal shall be in
238 writing, and shall state the basis for the appeal, and be filed
239 with the city clerk no later than seven (7) days from the latest
240 date of notice required for such appeal.

241 (* * *6) Nothing contained under this section shall prevent
242 any municipality from enacting criminal penalties for failure to
243 maintain property so as not to constitute a menace to public
244 health, safety and welfare.

245 **SECTION 2.** This act shall take effect and be in force from
246 and after July 1, 2018.

